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Massachusetts. Laws, statutes, etc. Administrative law
SPECIAL STATUTES^{et}

OF THE

Commonwealth of Massachusetts

RELATING TO THE

CITY OF BOSTON

PASSED PRIOR TO JANUARY 1, 1885

TOGETHER WITH THE

**PROVISIONS OF THE PUBLIC STATUTES REFERRING
ESPECIALLY TO BOSTON.**

COLLECTED AND ARRANGED BY EDWARD P. NETTLETON, CORPORATION COUNSEL,
UNDER THE DIRECTION OF THE COMMITTEE ON ORDINANCES,
PURSUANT TO AN ORDER OF THE CITY COUNCIL,
PASSED MARCH 4, 1884

Published by Order of the City Council

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BOSTON

ROCKWELL AND CHURCHILL, CITY PRINTERS, No. 39 ARCH STREET

1885

Rec. Oct. 24, 1906

CITY OF BOSTON.

IN BOARD OF ALDERMEN, March 8, 1884.

Ordered, That the Joint Standing Committee on Ordinances be authorized to have prepared a volume containing all the Acts of the General Court relating to the City of Boston now in force, arranged in such manner and with such appendices and indices as they may direct; the expense thereby incurred not to exceed the sum of fifteen hundred dollars, and to be charged to the appropriation for incidentals.

Passed in Common Council, Feb. 28, 1884.

Approved by the Mayor, March 4, 1884.

At a meeting of the Committee on Ordinances, held March 17, 1884, the Corporation Counsel was authorized to prepare, under the supervision of the committee, the volume contemplated by the foregoing order.

IN BOARD OF ALDERMEN, Feb. 9, 1885.

Ordered, That the Superintendent of Printing, under the direction of the Committee on Printing, be authorized to print and bind one thousand copies of the special statutes relating to the City of Boston, collected and arranged under the direction of the Committee on Ordinances of the year 1884; the expense thereof, not exceeding twenty-five hundred dollars, to be charged to the appropriation for Printing.

Passed in Common Council, Feb. 19, 1885.

Approved by the Mayor, Feb. 21, 1885.

P R E F A C E.

This book contains the special acts relating to the city of Boston which, either in whole or in part, appear to be still in force. Acts wholly repealed or superseded are omitted, while those changed in part only are printed, in most instances, as originally enacted. Some of the provisions of the earlier acts are apparently obsolete, but, in the absence of judicial decision to that effect, it seemed the safer course to print them.

Chapter 448 of the Acts of 1854, commonly called the City Charter, begins the volume; but, with this exception, the acts are printed in chronological order. At the foot of those relating to subjects covered by more than a single act a list of the related acts is given, and leading cases bearing upon any act are cited in the margin. Modifications, amendments, and partial repeals, are indicated by means of marginal references, brackets, and foot-notes. These references might have been made, in some instances, more specific; but, as it is hoped that steps will be taken at an early day for the consolidation of the legislation especially affecting Boston, it is believed that, for present purposes, the references sufficiently indicate the changes which, from time to time, have been made. The index has been carefully prepared by Charles F. Williams, Esq., of the Suffolk Bar, and will be a further aid in ascertaining the law as it now stands, as those parts of acts herein printed, which are believed to be no longer in force, have been passed by in its preparation.

After the special acts such provisions of the Public Statutes are reproduced as refer especially to the city; and in an appendix are printed the original charter (Acts of 1821, ch. 110) and the acts creating the several cities and towns which, since their incorporation, have been annexed to Boston.

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AN ACT TO REVISE THE CHARTER OF THE CITY OF BOSTON.¹

St. 1854. c. 448.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:—

SECTION 1. The inhabitants of the city of Boston, for all the purposes for which towns and cities are by law incorporated in this commonwealth, shall continue to be one body politic, in fact and in name, under the style and denomination of The City of Boston: and as such, shall have, exercise, and enjoy all the rights, immunities, powers and privileges, and shall be subject to all the duties and obligations now incumbent upon, and appertaining to, said city, as a municipal corporation.

Corporate powers.
Pick. 375.
Met. 478.

SECT. 2. The administration of all the fiscal, prudential, and municipal concerns of said city, with the conduct and government thereof, shall be vested in one principal officer, to be styled the mayor, one council of twelve persons, to be called the board of aldermen, and one council of forty-eight² persons, to be called the common council, which boards, in their joint capacity, shall be denominated the city council; and also in such other boards of officers as are hereinafter specified.

City government.

[SECT. 3. It shall be the duty of the city council, and they are empowered, during the year one thousand eight hundred and sixty, and whenever thereafter they may deem it expedient, not oftener than once in ten years, to cause a new division of the city to be made into twelve wards, in such manner as to include an equal number of voters in each ward, as nearly as conveniently may be, consistently with well-defined limits to each ward; and until such division be made, the boundary lines of the wards shall remain as now established.]³

Division into twelve wards.
1875, 243.
P. S. 28, 14.

SECT. 4. The annual meeting of citizens for the election of municipal officers hereinafter mentioned, shall be held on the second

Annual meeting for the election of city officers.

¹ The establishment of the town of Boston dates from the passage of the order of the Court of Assistants, September 17 (7th, O. S.) 1630, "that Trimountain shall be called Boston." The act of the legislature establishing the city of Boston was passed February 23, 1822, and adopted March 4, 1822 (St. 1821, c. 110). The Act to revise the Charter (St. 1854, c. 448) is here printed as it was enacted. The sections which have been repealed or superseded, are enclosed in brackets, and amendments or modifications are indicated in the notes.

Roxbury was first recognized by the Court of Assistants as a town October 8, 1630. It was incorporated as a city March 12, 1846 (St. 1846, c. 95), and annexed to Boston by vote of the two cities September 9, 1867 (St. 1867, c. 359). Dorchester was named by the Court of Assistants in the same order in which Boston was named, and it retained its town organization until annexed to Boston, June 22, 1869 (St. 1869, c. 349). Charlestown was founded July 4, 1629; incorporated as a city in 1847 (St. 1847, c. 29); annexed to Boston October 7, 1873 (St. 1873, c. 286). West Roxbury was incorporated as a town March 24, 1851 (St. 1851, c. 250); annexed to Boston October 7, 1873 (St. 1873, c. 314). Brighton was incorporated as a town in 1806 (St. 1806, c. 65); annexed to Boston October 7, 1873 (St. 1873, c. 303).

The changes in the original charter (St. 1821, c. 110), prior to the general revision, may be traced through the following statutes, which, having been repealed or superseded, are not printed in this volume: 1822, 85, 107; 1823, 2; 1824, 28, 49; 1829, 80; 1830, 7; 1831, 38; 1838, 123; 1850, 167; 1851, 337; 1852, 266; 1853, 354.

² By St. 1875, c. 243, the number was increased to seventy-two.

³ St. 1875, c. 243, required the city council in 1875, and during each tenth year thereafter, to cause a division of the city to be made into twenty-four wards. By St. 1876, c. 242, Ward 22 was divided into two wards, one being numbered twenty-five.

Monday¹ of December, and the citizens of said city, qualified to vote in city affairs, shall, for the purpose of such election, then meet together within the wards² in which they respectively reside, at such hour and place as the board of aldermen may, by their warrant, direct and appoint; and the person receiving the highest number of votes for any office shall be deemed and declared to be elected to such office; and, whenever two or more persons are to be elected to the same office, the several persons, to the number required to be chosen, having the highest number of votes, shall be declared elected.

Certificates of election to be furnished.

[SECT. 5.³ Every person so chosen in any ward shall, within forty-eight hours of his election, be furnished by the clerk with a certificate thereof, signed by the warden, clerk, and a majority of the inspectors, which certificate shall be presumptive evidence of the title of such person to the office therein mentioned.]

Commencement of municipal year.

SECT. 6. The municipal officers to be chosen at the annual election shall enter upon the duties of their respective offices on the first Monday of January.

Election of ward officers.

[SECT. 7.⁴ The qualified voters of said city shall, at the annual meeting, choose, by ballot, one warden and one clerk, and five inspectors of elections for each ward, who shall be resident in said ward, and who shall hold their offices for one year, and until others shall be chosen and qualified in their stead.]

Ward officers to be sworn.

[SECT. 8. The ward officers mentioned in the preceding section shall respectively make oath faithfully and impartially to discharge their several duties, which oath may be administered by the clerk of such ward to the warden, and by the latter to the clerk and inspectors, or to all of said officers, by any justice of the peace for the county of Suffolk; and a certificate thereof shall be entered in the record to be kept by the clerk of the ward.]

Non-election of ward officers.

[SECT. 9. In case of the non-election of any ward officer at the annual meeting adjournments may be had for the purpose of effecting such election, in the same manner as is hereinafter provided with regard to the election of members of the common council.]

Absence of ward officers.

[SECT. 10. In case of the absence of any ward officer at any ward meeting such officer may be chosen *pro tempore*, by hand vote, and shall have all the powers, and be subject to all the duties of the regular officer, at such meeting.]

Power and duty of warden.

[SECT. 11. It shall be the duty of the warden to preside at all ward meetings, with the powers of moderators of town meetings. In case of his absence, the clerk, and, in case of the absence of the clerk, any inspector shall preside according to seniority, until a warden shall be chosen, as provided in the preceding section.]

Duties of ward clerk.

[SECT. 12. It shall be the duty of the clerk to make a fair and true record, and to keep an exact journal of all the acts and votes of citizens at the ward meetings, and to deliver over such records and journals, together with other documents and papers held by him in his said capacity, to his successor in office.]

Duties of warden and inspectors.

[SECT. 13. It shall be the duty of the warden and inspectors of each ward to receive, sort and count, and of the warden to declare, all votes at any election within such ward.]

Duties of ward officers at all elections.

[SECT. 14. It shall be the duty of all ward officers, authorized to preside and act at elections of city officers, to attend and perform

¹ By P. S. c. 7, § 67, the municipal election is now held on the Tuesday next following the second Monday.

² St. 1878, c. 243, § 1 provides for a division of each ward into precincts, and requires (§ 4) meetings for elections to be "at the several polling-places" within each ward.

³ Annulled by St. 1878, c. 243, § 2.

⁴ Sections seven to fourteen, inclusive, were repealed by St. 1876, c. 218. By St. 1878, c. 243, § 2, the powers, duties, and liabilities of ward officers devolved on precinct officers.

their respective duties at the times and places appointed for elections of any officers, whether of the United States, state, city, or wards, and to make and sign the regular returns of the same.]

SECT. 15. The qualified voters of said city shall, at the annual meeting, be called upon to give in their votes for one able and discreet person, being an inhabitant of the city, to be mayor of said city for the term of one year. [All the ballots, so given in, in each ward, being sorted, counted and declared, shall be recorded at large by the clerk, in open ward meeting; and, in making such declaration and record, the whole number of votes or ballots given in shall be distinctly stated, together with the name of every person voted for, and the number of votes given for each person respectively; such numbers to be expressed in words at length, and a transcript of such record, certified and authenticated by the warden, clerk, and a majority of the inspectors of elections, for each ward, shall forthwith be transmitted or delivered by such ward clerk to the clerk of the city. It shall be the duty of the city clerk forthwith to enter such returns, or a plain and intelligible abstract of them, as they are successively received, upon the journal of the proceedings of the board of aldermen, or some other book to be kept for that purpose.]

Election of mayor.

SECT. 16.* The board of aldermen shall, as soon as conveniently may be, within three days of such election, meet together and examine all the said returns, and they shall cause the person who may have been elected mayor to be notified, in writing, of his election; but if it shall appear by said returns that no person has been elected, or if the person elected shall refuse to accept the office, the board shall issue their warrants for a new election, and the same proceedings shall be had as are provided in the preceding section for the choice of a mayor, and repeated, from time to time, until a mayor shall be chosen.

Board of aldermen to examine returns of votes for mayor.

SECT. 17. Whenever, on examination by the board of aldermen of the returns of votes given for mayor, at the meetings of the wards holden for the purpose of electing that officer, last preceding the first Monday of January in each year, no person shall appear to be chosen, the board of aldermen, by whom such examination is made, shall make a record of that fact, an attested copy of which record it shall be the duty of the city clerk to produce and read, on the first Monday of January, in the presence of the members returned to serve as aldermen and common councilmen; and the oaths prescribed by law may be administered to the members elect. The members of the board of aldermen shall thereupon proceed to elect a chairman, and the common council a president, in their respective chambers; and, being respectively organized, they shall proceed to business in the manner hereinafter provided in case of the absence of the mayor; and the board of aldermen shall forthwith issue their warrants for meetings of the citizens of the respective wards, for the choice of a mayor, at such time and place as they shall judge most convenient; and the same proceedings shall be had, in all respects, as are hereinbefore directed, and shall be repeated, from time to time, until a mayor shall be duly chosen.

Proceedings in case of no choice of mayor before the commencement of the municipal year.

SECT. 18. Whenever it shall appear, by the regular returns of the elections of city officers, that a mayor has not been chosen, or that a full board of aldermen has not been elected, such of the board of aldermen, whether they constitute a quorum or not, as may have been chosen, shall issue their warrant in the usual form, for the election of a mayor, or such members of the board of aldermen as may be neces-

Proceedings in case no mayor is chosen, or a full board of aldermen is not elected. 1884, 250.

* Modified by statutes dividing wards into precincts, and prescribing the duties of precinct officers. See St. 1878, c. 243, §§ 4, 18, 19; 1884, c. 290, § 19.

† Modified by St. 1884, c. 290, § 32.

sary, and the same proceedings shall be had and repeated until the election of a mayor and aldermen shall be completed, and all vacancies shall be filled in the said board; and in case neither a mayor nor any alderman shall be elected at the usual time for electing the same, and after the powers of the former mayor and aldermen shall have ceased, it shall be the duty of the president of the common council to issue his warrant in the same manner as the board of aldermen would have done, if elected, and the same proceedings shall be had and repeated until a mayor or one or more aldermen shall be elected.

Election of
aldermen.
1884, 250.

[SECT. 19.¹ The qualified voters of said city shall, at the annual meeting, be called upon to give in their votes for twelve persons, being inhabitants of said city, to constitute the board of aldermen for the ensuing year, and all the votes so given, being sorted, counted and declared, by the warden and inspectors, shall be recorded at large by the clerk, in open ward meeting; and, in making such declaration and record, the whole number of votes or ballots given in shall be particularly stated, together with the name of every person voted for, and the number of votes given for each person; and a transcript of such record, certified by the warden and clerk, and a majority of the inspectors of each ward, shall forthwith be transmitted to the city clerk; whereupon the same proceedings shall be had, to ascertain and determine the persons chosen as aldermen, as are hereinbefore directed in regard to the choice of mayor, and for a new election, in case of the whole number required not being chosen at the first election. And each alderman so chosen shall be duly notified, in writing, of his election, by the mayor and aldermen for the time being.]

Election of
common councilmen.
1875, 243.
1876, 225, § 8.
1876, 242.

[SECT. 20.* The qualified voters of each ward shall, at the annual election, be called upon to give in their votes for four able and discreet men, being inhabitants of the ward, to be members of the common council for the ensuing year; and all the ballots so given in, in each ward, being sorted, counted and declared, a public declaration of the result shall be made by the warden in open ward meeting; and a record of such proceeding shall be kept by the clerk in his journal, stating particularly the whole number of ballots given in, the number necessary to make a choice, the number actually given for each person, the whole to be written in words at length.]

Proceedings in
case there is no
choice of com-
mon council-
men.
1875, 243.
1876, 242.
1880, 225, § 6.
P.S. 28, § 19.

[SECT. 21.² In case four persons are not chosen at the first balloting in any ward, the meeting of such ward shall be adjourned by the presiding officer, for the purpose of filling such vacancies, to a period not less than twenty-four nor more than seventy-two hours distant from the hour when the polls were opened at the first balloting; the time of adjournment, within such limits, to be determined by the warden, with the consent of a majority of the inspectors who may be present when such adjournment is had; and such notice shall be given of the time of such adjournment, and the time the polls will be kept open, as the warden may direct; and at such adjourned meeting a balloting shall be opened for a number of common councilmen sufficient to complete the number of four, which shall be conducted and its results be declared and recorded, in the same manner as before prescribed for the first balloting.]

Same subject.
1880, 225, § 6.

[SECT. 22.³ In case there shall still be vacancies in the number of common councilmen in any ward, adjournments of the meetings of

¹ By St. 1884, c. 250, the city was divided into twelve aldermanic districts, the qualified voters of each to elect at the annual municipal election one member of the board of aldermen.

² St. 1875, c. 243, provided for the election of three members of the common council from each ward. St. 1876, c. 242, provided for the division of ward twenty-two into two wards, and for the election alternately of one and two members of the council from said wards.

³ Sections 21, 22, 23 and 25 were repealed by St. 1880, c. 225, § 6. The same act provided for filling vacancies.

the citizens thereof, for the purpose of filling the same, shall continue to be had in the same manner, to periods not less than twenty-four nor more than seventy-two hours distant from each other, at all of which the balloting shall be conducted, and the result be declared and recorded, in the same manner as before prescribed, until the number of four shall be duly chosen. And at all such adjournments the polls shall be kept open the same number of hours as were required by the original warrant.]

[SECT. 23.¹ If at the close of the last legally adjourned meeting of any ward as aforesaid, preceding the first Monday in January, there shall still be vacancies in the number of common councilmen for any ward, no further adjournment shall be had; but a record of the fact, and of the number of such vacancies, shall be made by the clerk of the ward in his journal, signed therein by the warden, clerk, and a majority of the inspectors, an attested copy of which record shall forthwith be delivered by the clerk of the ward to the city clerk, who shall lay the same before the common council at their first meeting in January.]

Same subject.
1880, 225, § 6.

SECT. 24. The board of aldermen, the common council, and the school committee, shall have authority to decide upon all questions relative to the qualifications, elections and returns of their respective members.

Board of aldermen, etc., to judge of elections.
1875, 241.

[SECT. 25.¹ Whenever it shall appear to the board of aldermen that there is a vacancy, by removal from the city, or by death, resignation or otherwise, in the board of aldermen, the common council, [the school committee,]² or in any of the city and ward offices, it shall be the duty of said board to issue their warrant, in due form, to fill all such vacancies in each and all of said boards and offices, at such time and place as they may deem advisable; and the same proceedings shall be had, and adjournments if necessary, within the same limits as are herein prescribed for the annual meeting for the election of common councilmen. But in case of vacancies in the common council and school committee¹ such warrant shall not be issued until the board of aldermen receive official information thereof.]

Vacancies in city or ward offices.
1880, 225, §§ 5, 6.

SECT. 26. All city and ward officers shall be held to discharge the duties of the offices to which they have been respectively elected, notwithstanding their removal after their election out of their respective wards into any other wards of the city; but they shall not be so held after they take up their permanent residence out of the city.

Removal of city or ward officers from their wards.
P.S. 27, § 89.
P.S. 28, § 2.

SECT. 27. The mayor, aldermen, and common councilmen, on the first Monday of January, or before entering on the duties of their offices, shall respectively be sworn by taking the oath of allegiance and oath of office prescribed in the constitution of this commonwealth, and an oath to support the constitution of the United States. And such oaths may be administered to the mayor elect by any one of the justices of the supreme judicial court, or any judge of any court of record commissioned to hold any such court within the said city, or by any justice of the peace for the county of Suffolk. And such oaths shall be administered to the aldermen and members of the common council by the mayor, being himself first sworn as aforesaid, or by either of the persons authorized to administer said oath to the mayor; and a certificate of such oaths having been taken shall be entered in the journal of the mayor and aldermen and of the common council, respectively, by their respective clerks.

Organization of city council.

Oath of office.

¹ See *ante*, page 4, note 3.

² By P. S., c. 44, § 22, vacancies in the school committee are filled by the school committee and board of aldermen in convention.

Absence of
mayor elect.

SECT. 28. In case of the unavoidable absence on account of sickness, or otherwise, of the mayor elect, on the first Monday in January, the city government shall organize itself in the mode hereinbefore provided in cases wherein no person shall have been elected mayor at the meeting last preceding the first Monday in January, and may proceed to business in the same manner as if the mayor were present.

Aldermen to
choose a per-
manent chair-
man.

SECT. 29. After the organization of the city government and the qualification of a mayor, and when a quorum of the board of aldermen shall be present, said board, the mayor presiding, shall proceed to choose a permanent chairman, who shall preside at all meetings of the board and at conventions of the two branches in the absence of the mayor; and in case of any vacancy in the office of mayor, for any cause, he shall exercise all the powers and perform all the duties of the office as long as such vacancy shall continue. But he shall continue to have a vote in the board, and shall not have the veto power.

City Clerk.
P.S. 28, § 10.
R.O. c. 8.

SECT. 30. The mayor, aldermen and common council, in convention, in the month of January, shall choose a clerk for the term of one year, and until another person is duly chosen and qualified in his stead, who shall be sworn to the faithful discharge of the duties of his office, and shall be removable at the pleasure of the board of aldermen, the mayor thereto consenting. He shall be denominated the city clerk, and it shall be his duty to keep a journal of the acts and proceedings of the board of aldermen, to sign all warrants issued by them, and to do such other acts in his said capacity as may lawfully and reasonably be required of him; and to deliver over all journals, books, papers and documents, intrusted to him as such clerk, to his successor in office, immediately upon such successor being chosen and qualified as aforesaid, or whenever he may be thereunto required by the aldermen. The city clerk thus chosen and qualified shall continue to have all the powers and perform all the duties now by law belonging to him.

Vacancy in
office of city
clerk.

SECT. 31. In case of a vacancy in the office of city clerk, from any cause, the same shall be filled in the manner provided in the preceding section.

Absence of
city clerk.
R.O. c. 8, §§ 2, 3.

SECT. 32.¹ [In case of the temporary absence of the city clerk, the mayor, by and with the advice and consent of the board of aldermen, may appoint a city clerk *pro tempore*.]

Powers and
duties of
mayor and
aldermen.

SECT. 33. [“The administration of police” together with the executive powers of the said corporation generally, and all the powers formerly vested in the selectmen of the town of Boston, either by the general laws of this commonwealth, by particular laws relative to the powers and duties of said selectmen, or by the usages, votes or by-laws of said town, and all the powers subsequently vested in the mayor and aldermen² of said city, as county commissioners⁴ or otherwise, shall be and hereby are vested in the board of aldermen as hereby constituted, as fully and amply as if the same were herein specially enumerated. A majority of the members of the board shall constitute a quorum for the transaction of business. Their meetings shall be public, and the mayor, if present, shall preside, but without a vote.

P.S. 22, § 30.
P.S. 49, § 84.
1870, 337.
1882, 164.

¹ See P. S., c. 28, § 10, for authority to establish the office of assistant city clerk.

² Transferred to the board of police commissioners by St. 1878, c. 244.

³ “In all laws relating to cities, the words mayor and aldermen shall, unless provision is or shall be otherwise made, be construed to mean board of aldermen, anything in the charter of any city or in any act in amendment thereof to the contrary notwithstanding: *provided, however*, that all appointments which are directed to be made by the mayor and aldermen shall be made in accordance with existing provisions of law.” St. 1882, c. 164.

⁴ By St. 1870, c. 337, the powers formerly exercised by the board of aldermen, relative to laying out, widening, and discontinuing streets, and the abatement of taxes vested in the board of street commissioners.

SECT. 34. The persons so chosen and qualified as members of the common council of the said city shall sit and act together as a separate body, distinct from that of the board of aldermen, except in those cases in which the two bodies are to meet in convention; and the said council shall have power, from time to time, to choose one of their own members to preside over their deliberations, and to preserve order therein, and also to choose a clerk, who shall be under oath faithfully to discharge the duties of his office, who shall hold such office during the pleasure of said council, and whose duty it shall be to attend said council when the same is in session, to keep a journal of its acts, votes and proceedings, and to perform such other services, in said capacity as said council may require. All sittings of the common council shall be public; and [twenty-five members shall constitute a quorum for the transaction of business¹].

Common council a separate body.

President.

Clerk.

Sittings to be public.

Quorum.

SECT. 35. All other powers heretofore by law vested in the town of Boston, or in the inhabitants thereof, as a municipal corporation, or in the city council of the city of Boston, shall be and hereby are continued to be vested in the mayor, aldermen and common council of the said city, to be exercised by concurrent vote, each board as hereby constituted having a negative upon the proceedings of the other, and the mayor having a veto power as hereinafter provided. More especially they shall have power to make all such needful and salutary by-laws or ordinances, not inconsistent with the laws of this commonwealth, as towns by the laws of this commonwealth have power to make and establish, and to annex penalties not exceeding fifty dollars for the breach thereof, which by-laws and ordinances shall take effect, and be in force from and after the time therein respectively limited,² without the sanction or confirmation of any court or other authority whatsoever.

Powers of city council.
1821, 110, § 16.
123 Mass. 344.

By-laws.
P.S. 27, 28.
3 Pick. 482.
6 Pick. 187.
11 Pick. 168.
16 Pick. 504.
2 Cush. 662.
9 Met. 253.
12 Gray 161.
115 Mass. 217.
117 Mass. 114.
121 Mass. 356.
126 Mass. 431.
128 Mass. 213.
330.
133 Mass. 372.

SECT. 36. The city council shall also have power, from time to time, to lay and assess taxes for all purposes for which towns are by law required or authorized to assess and grant money, and also for all purposes for which county taxes may be levied and assessed, so long as other towns in the county shall not be liable to taxation for county purposes. But in the assessment and apportionment of all such taxes upon the polls and estates of all persons liable to contribute thereto, the same rules and regulations shall be observed as are now established by the laws of this commonwealth, or may be hereafter enacted, relative to the assessment and apportionment of town taxes.

Assessment of taxes.
P.S. 11, 27, 29.
13 Mass. 272.
6 Pick. 101.
12 Pick. 227.
23 Pick. 71.
4 Gray 602.
1 Allen 103.
108 Mass. 408.
112 Mass. 127.
275.

SECT. 37. The said city council shall also have power to provide for the assessment and collection of such taxes, and to make appropriations of all public moneys, and provide for the disbursement thereof, and take suitable measures to insure a just and prompt account thereof; and, for these purposes, may either elect such assessors and assistant assessors as may be needful, or provide for the appointment or election of the same, or any of them, by the mayor and aldermen, or by the citizens, as in their judgment may be most conducive to the public good; and may also require of all persons intrusted with the collection, custody, or disbursement of public moneys, such bonds, with such conditions and such sureties, as the case may in their judgment require.

Collection of taxes.

Assessors to be chosen.
1884, 123.
R.O. c. 20.

Bonds, etc., may be required.
R.O. c. 5, 12, § 1;
13, § 1; 24, § 9.

SECT. 38. The city council may provide for the appointment, or election of all necessary officers, for the good government of said city, not otherwise provided for, and may prescribe their duties, and

City council may provide for the appointment of city officers.

¹ By St. 1872, c. 15, a majority of all the members of the common council shall constitute a quorum for the transaction of business.

² If no time is limited, and there is nothing to show that it was not intended to take effect immediately, an ordinance takes effect from its passage. 109 Mass. 355.

Register of
deeds.

Care and cus-
tody of city
property.
R.O. c. 32.

Power to pur-
chase property.

Board of
health.
P.S. 80.
12 Pick. 184.
98 Mass. 431.
116 Mass. 264.
R.O. c. 22.

Surveyors of
highways.
135 Mass. 197.
City treasurer.
1875, 176.
P.S. 23, § 3.

Members of
city council
ineligible to
other offices.
1884, 115.

Representa-
tives to gen-
eral court.

Compensation
of the mayor.
98 Mass. 39.
108 Mass. 208.
112 Mass. 512.

fix their compensation, and may choose a register of deeds whenever the city shall be one county.

SECT. 39. The city council shall have the care and superintendence of the public buildings, and the care, custody, and management of all the property of the city, with power to lease or sell the same, except the Common and Faneuil Hall. And the said city council shall have power to purchase property, real or personal, in the name and for the use of the city, whenever its interests or convenience may in their judgment require it.

SECT. 40. All the power and authority now by law vested in the city council, or in the board of mayor and aldermen, relative to the public health, and the quarantine of vessels, shall continue to be vested in the city council, to be carried into execution by the appointment of one or more health commissioners; or in such other manner as the health, cleanliness, comfort, and order of the city may, in their judgment, require, subject to such alterations as the legislature may from time to time adopt. The powers and duties above named may be exercised and carried into effect by the city council in any manner which they may prescribe, or through the agency of any persons to whom they may delegate the same, notwithstanding a personal exercise of the same, collectively or individually, is prescribed by previous legislation; and the city council may constitute either branch, or any committee of their number, whether joint or separate, the board of health for all or for particular purposes.

SECT. 41. The board of aldermen shall be surveyors of highways for said city.

[SECT. 42.¹ The city council shall, in the month of May, meet together in convention, and elect a suitable person to be the treasurer of said city, who shall also be county treasurer, and who shall hold his office until his successor is chosen and qualified in his stead.]

SECT. 43.² No person shall be eligible to any office, the salary of which is payable out of the city treasury, who, at the time of his appointment, shall be a member of either the board of aldermen or the common council; and neither the mayor, nor any alderman, or member of the common council, shall, at the same time, hold any office of emolument under the city government.

[SECT. 44.³ In the month of October in each year the city government shall meet in convention, and determine the number of representatives which it may be expedient for the corporation to send to the general court in the ensuing year, within its constitutional limits, and to publish such determination, which shall be conclusive; and the number thus determined shall be specified in the warrant calling a meeting for the election of representatives.]

SECT. 45. The mayor of the city, chosen and qualified as hereinbefore provided, shall be taken and deemed to be the chief executive officer of said corporation; and he shall be compensated for his services by a salary, to be fixed by the board of aldermen and common council in convention assembled, payable at stated periods, which salary shall not exceed the sum of five thousand⁴ dollars annually; and he shall receive no other compensation or emoluments whatever; and no regulations enlarging or diminishing such compensation shall be made, to take effect until the expiration of the year

¹St. 1875, c. 176, provides that the treasurer shall be elected annually in the month of May or June by concurrent vote of both branches of the city council. It also provides (§ 2) for the election of a collector, and defines his powers.

²"In the county of Suffolk the treasurer of the city of Boston shall be the county treasurer." P.S. 23, § 3.

³St. 1884, c. 115, provides that no member of the city council shall be eligible to any such office during the term for which he was chosen.

⁴See amendments of constitution, Art. XXI.

⁵Salary fixed at \$5,000 in convention, Nov. 21, 1864.

for which the mayor then in office shall have been elected; and said salary, when fixed, shall continue until changed by the city council, as aforesaid.

SECT. 46. It shall be the duty of the mayor to be vigilant and active, at all times, in causing the laws for the government of said city to be duly executed and put in force; to inspect the conduct of all subordinate officers in the government thereof, and, as far as may be in his power, to cause all negligence, carelessness, and positive violation of duty to be duly prosecuted and punished. He shall have power, whenever in his judgment the good of said city may require it, to summon meetings of the board of aldermen and common council, or either of them, although the meeting of said boards may stand adjourned to a more distant day, and shall cause suitable notice in writing, of such meetings, to be given to the respective members of said boards. And he shall, from time to time, communicate to both branches of the city council all such information, and recommend all such measures, as may tend to the improvement of the finances, the police, health, security, cleanliness, comfort, and ornament of the said city.

His powers
and duties.
5 Gray 121.
98 Mass. 39.

SECT. 47. Every ordinance, order, resolution, or vote, to which the concurrence of the board of aldermen and of the common council may be necessary (except on a question of convention of the two branches), and every order of either branch involving the expenditure of money, shall be presented to the mayor; if he approve thereof, he shall signify his approbation by signing the same; but, if not, he shall return the same, with his objections, to the branch in which it originated, who shall enter the objections of the mayor at large on their records, and proceed to reconsider said ordinance, order, resolution, or vote; and if, after such reconsideration, two-thirds¹ of the board of aldermen or common council, notwithstanding such objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the city council (if it originally required concurrent action), where it shall also be reconsidered, and, if approved by two-thirds of the members present, it shall be in force; but in all cases the vote shall be determined by yeas and nays, and if such ordinance, order, resolution, or vote, shall not be returned by the mayor within ten days after it shall have been presented the same shall be in force. But the veto power of the mayor shall not extend to the election of officers required by any law or ordinance to be chosen by the city council in convention or by concurrent action, unless expressly so provided therein.

Veto power
of the mayor.

SECT. 48.² In all cases where anything is or may be required or authorized by any law or ordinance to be done by the mayor and aldermen, the board of aldermen shall first act thereon; and any order, resolution, or vote, of said board shall be presented to the mayor for his approval, and the same proceedings shall be had as are provided in the preceding section.

Same subject.
1882, 164.

SECT. 49. In all cases wherein appointments to office are directed to be made by the mayor and aldermen, they shall be made by the mayor, by and with the advice and consent of the aldermen; and such officers may be removed by the mayor.

Mayor to
appoint officers
by consent of
aldermen.
Power of
removal.
1882, 164.
Vacancy in
the office of
mayor.

SECT. 50. In the case of the decease, inability, absence, or resignation of the mayor, and whenever there is a vacancy in the office from any cause, and the same being declared, and a vote passed by the aldermen and common council respectively, declaring such cause and the expediency of electing a mayor for the time being to supply

¹ By P. S. c. 28, § 6, the affirmative action of two-thirds of the members in each branch present and voting is required to overcome the mayor's veto.

² See section thirty-three, *ante*, p. 6, note 3.

the vacancy thus occasioned, the board of aldermen shall issue their warrants in due form, for the election of a mayor, and the same proceedings shall be had as are hereinbefore provided for the choice of a mayor.

Accountability
of all boards
and officers for
public money.
Annual financial
statement.
R.O. c. 14.

SECT. 51. All boards and officers acting under the authority of the said corporation, and intrusted with the expenditure of public money, shall be accountable therefor to the city council, in such manner as they may direct; and it shall be the duty of the city council to publish and distribute annually for the information of the citizens, a particular statement of the receipts and expenditures of all public moneys, and a particular statement of all city property.

Election of
overseers of
the poor.
1864, 128.

[SECT. 52.¹ The qualified voters of each ward shall, at the annual meeting, be called upon to give in their votes for one able and discreet person, being an inhabitant of the ward, to be an overseer of the poor; and thereupon the same proceedings shall be had as are before directed in the election of members of the common council. And the persons thus chosen shall, together, constitute the board of overseers for said city, and shall continue to have all the powers, and be subject to all the duties, now by law appertaining to the overseers of the poor of the city of Boston, until the same shall be altered or qualified by the legislature.]

Their powers
and duties.

The school
committee.
1875, 241.

[SECT. 53.² The school committee shall consist of the mayor of the city, the president of the common council, and the persons hereinafter mentioned. A majority of the persons duly elected shall constitute a quorum for the transaction of business; and at all meetings of the board, the mayor, if present, shall preside.]

Same subject.

[SECT. 54.³ At the annual election next after the passage of this act the qualified voters of each ward shall be called upon to give in their ballots for six inhabitants of the ward to be members of the school committee; and the two persons who receive the highest number of votes, or, in case more than two receive an equal number of votes, the two persons who are senior by age shall hold their office for three years from the second Monday in January next ensuing; and the next two persons who receive the highest number of votes, or who are senior by age in the contingency aforesaid, shall hold their office for two years from said date; and the two other persons shall hold their office for one year from said date; and at every subsequent annual election two persons shall be chosen in each ward to be members of the school committee for the term of three years.]

Organization of
school com-
mittee.
1875, 241.
Secretary and
subordinate
officers.
Powers and
duties of
school com-
mittee.
1875, 241.

[SECT. 55.⁴ The persons so chosen as members of the school committee shall meet and organize on the second Monday in January, at such hour as the mayor may appoint. They may choose a secretary, and such subordinate officers as they may deem expedient, and shall define their duties, and fix their respective salaries.]

SECT. 56.⁵ The said committee shall have the care and management of the public schools, and may elect all such instructors as they may deem proper, and remove the same whenever they consider it expedient. And generally they shall have all the powers in relation to the care and management of the public schools, which the selectmen of towns or school committees are authorized by the laws of this Commonwealth to exercise.

Qualifications
of voters at

SECT. 57.⁶ Every male citizen of twenty-one years of age and

¹ By St. 1864, c. 123, overseers of the poor, twelve in number, are to be elected by the city council by concurrent vote, four being chosen each year.

² By St. 1875, c. 241, the school committee is made to consist of twenty-four members, eight being elected each year by the qualified voters of the city.

³ See St. 1875, c. 241, reorganizing the school committee.

⁴ By the twentieth amendment of the constitution of the State (adopted May 1, 1857), no person shall have the right to vote "who shall not be able to read the constitution in the English language, and write his name: *provided, however, that the provisions of this amendment shall not*

upwards, excepting paupers and persons under guardianship, who shall have resided within the commonwealth one year, and within the city six months next preceding any meeting of citizens, either in wards or in general meeting, for municipal purposes, and who shall have paid by himself, or his parent, master or guardian, any state or county tax, which, within two years next preceding such meeting, shall have been assessed upon him, in any town or district in this commonwealth, and also every citizen who shall be by law exempted from taxation, and who shall be, in all other respects, qualified as above mentioned, shall have a right to vote at such meeting, and no other person shall be entitled to vote at such meeting.

municipal
elections,
etc.

[SECT. 58.¹ It shall be the duty of the board of aldermen, prior to every election of city officers, or of any officer or officers under the government of the United States or of this commonwealth, to make out lists of all the citizens of each ward qualified to vote in such election, in the manner in which selectmen and assessors of towns are required to make out similar lists of voters, and for that purpose they shall have free access to the assessors' books and lists, and shall be entitled to the aid and assistance of all assessors, assistant assessors, and other officers of said city. And it shall be the duty of said board of aldermen to deliver such list of the voters in each ward, so prepared and corrected, to the clerk of said ward, to be used by the warden and inspectors thereof, at such election; and no person shall be entitled to vote at such election whose name is not borne on such list. And to prevent all frauds and mistakes in such elections, it shall be the duty of the inspectors in each ward to take care that no person shall vote at such election whose name is not so borne on the list of voters, and to cause a mark to be placed against the name of each voter on such list, at the time of giving in his vote. And the city council shall have authority to establish such rules and regulations, as to making out, publishing, and using such lists of qualified voters, as they shall deem proper, not inconsistent with the constitution and laws of the commonwealth.]

Board of aldermen to make lists of voters prior to every election.
1874, 80.

Inspectors to allow no one to vote whose name is not on the list.

[SECT. 59.² All elections for governor, lieutenant-governor, senators, representatives, representatives to congress, and all other officers, who are to be chosen and voted for by the people, shall be held at meetings of the citizens qualified to vote in such elections, in their respective wards, at the time fixed by law for those elections respectively. And at such meetings, all the votes given in being collected, sorted, counted and declared, by the inspectors of elections in each ward, it shall be the duty of the clerk of such ward to make a true record of the same, specifying therein the whole number of ballots given in, the name of each person voted for, and the number of votes for each, expressed in words at length. And a transcript of such record, certified by the warden, clerk, and a majority of the inspectors of elections in such ward, shall forthwith be transmitted or delivered by each ward clerk to the clerk of the city. And it shall be the duty of the city clerk forthwith to enter such returns, or a plain and intelligible abstract of them, as they are successively received, in the journals of the proceedings of the board of aldermen, or in some other book kept for that purpose. And it shall be the duty of the board of aldermen to meet together within two days after every such election and examine and compare all the said returns, and there-

Elections of national and state officers.
1878, 243.
1884, 250, 299.

Examination and return of votes.

apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any persons who shall be sixty years of age or upwards at the time this amendment shall take effect."

¹ By St. 1874, c. 60, the duty of preparing the lists of voters was transferred to a board of registrars of voters.

² The manner of conducting elections and returning votes is now governed by the provisions of Sts. 1878, c. 243; 1884, c. 250, 299.

Certificate.

upon to make out a certificate of the result of such election, to be signed by a majority of the aldermen, and also by the city clerk, which shall be transmitted, delivered or returned, in the same manner as similar returns are by law directed to be made by the selectmen of towns; and such certificates and returns shall have the same force and effect, in all respects, as like returns of similar elections made by the selectmen of towns. At the election of governor, lieutenant-governor, and senators it shall be the duty of the board of aldermen to make and seal up separate lists of persons voted for as governor, lieutenant-governor, and senators of the commonwealth, with the number of votes for each person, written in words at length against his name, and to transmit said lists to the secretary of the commonwealth, or to the sheriff of the county. The board of aldermen shall, within three days next after the day of any election of electors of president and vice-president of the United States, held by virtue of the laws of this commonwealth, or of the United States, deliver or cause to be delivered, the lists of votes therefor, sealed up, to the sheriff of the county, and the said sheriff shall, within four days after receiving said lists, transmit the same to the office of the secretary of the commonwealth; or the said aldermen may, and when the office of sheriff is vacant, they shall themselves, transmit the said lists to the said office within seven days after the election; and all votes not so transmitted shall be rejected. In all elections for representatives to the general court, in case the whole number proposed to be elected shall not be chosen according to law, by the votes legally returned, the board of aldermen shall forthwith issue their warrants for a new election, agreeably to the constitution and laws of this commonwealth, and the same proceedings shall be had, in all respects, as are hereinbefore directed; and in case of no choice being made of representatives to congress, in either district, of which the city of Boston composes a part, or in case of any vacancy happening in said districts, or either of them, the governor shall cause precepts for new elections to be directed to the board of aldermen of said city, as often as occasion shall require; and such new elections shall be held, and all proceeding thereon had, and returns made, in conformity with the foregoing provisions.]

Separate lists of votes for governor, &c., to be transmitted to the secretary, or to sheriffs.

Votes for electors of president, &c., how and when to be transmitted to the secretary.

Proceedings in case representatives are not chosen.

Proceedings in case of no election of representatives to congress.

General meetings of the citizens. 1882, 204.

Warrants for meetings to be issued by the board of aldermen. R.O. c. 2.

Power of the legislature to alter the charter.

[SECT. 60.] General meetings of the citizens qualified to vote in city affairs may from time to time be held, to consult upon the common good, to give instructions to their representatives, and to take all lawful measures to obtain a redress of any grievances, according to the right secured to the people by the constitution of this commonwealth. And such meetings shall and may be duly warned by the board of aldermen, upon the requisition of fifty qualified voters of said city. The mayor, if present, shall preside, and the city clerk shall act as the clerk of such meetings.]

SECT. 61. All warrants for the meetings of the citizens for municipal purposes, to be had either in general meetings or in wards,* shall be issued by the board of aldermen, and in such form, and shall be served, executed, and returned, at such time and in such manner, as the city council may by any by-law or ordinance direct and appoint.

SECT. 62. Nothing in this act contained shall be so construed as to restrain or prevent the legislature from amending or altering the same whenever they shall deem it expedient.

* By St. 1882, c. 204, general meetings may be warned by the board of aldermen upon the requisition of twenty-five qualified voters of each ward. If the board of aldermen refuses or neglects to call any such meeting, any justice of the municipal court of said city may, upon a like requisition call such meeting at such time and in such manner as he may direct, and shall appoint some one to preside therein until the same shall be duly organized by choice of clerk and chairman.

¹ Precincts, St. 1878, c. 243.

SECT. 63. All acts and parts of acts inconsistent with this act are hereby repealed: *provided, however,* that the repeal of the said acts shall not affect any act done, or any right accruing or accrued, or established, or any suit or proceeding had or commenced in any civil case before the time when such repeal shall take effect. And that no offence committed, and no penalty or forfeiture incurred, under the acts hereby repealed, and before the time when such repeal shall take effect, shall be affected by the repeal. And that no suit or prosecution pending at the time of the said repeal for any offence committed, or for the recovery of any penalty or forfeiture incurred under the acts hereby repealed, shall be affected by such repeal; and *provided, also,* that all persons who, at the same time when the said repeal shall take effect, shall hold any office under the said acts, shall continue to hold the same according to the tenure thereof; and *provided, also,* that all the by-laws and ordinances of the city of Boston, which shall be in force at the time when the said repeal shall take effect, shall continue in force until the same are repealed by the city council, and all officers elected under such by-laws and ordinances, shall continue in office according to the tenure thereof.

Repeal of first
charter.
Proviso.

SECT. 64. No act which has been heretofore repealed shall be revived by the repeal of the acts mentioned in the preceding section.

Repeal not to
revive other
acts.

SECT. 65. This act shall be void unless the inhabitants of the city of Boston, at a legal meeting called for that purpose, by a written vote determine to adopt the same;¹ and the qualified voters of the city shall be called upon to give in their votes upon the acceptance of this act, at meetings in the various wards, duly warned by the mayor and aldermen to be held on or before the second Monday in November; and thereupon, the same proceedings shall be had respecting the sorting, counting, declaring, recording and returns of said votes, as is herein provided at the election of mayor; and the board of mayor and aldermen shall, within three days, meet together and compare the returns of the ward officers; and if it appear that the citizens have voted to adopt this act, the mayor shall make proclamation of the fact, and thereupon the act shall take effect for the purpose of electing municipal officers at the next annual election, and for all other purposes it shall take effect on and after the first Monday of January next.

Act to be sub-
mitted to the
citizens.
1 Pick. 375.

April 29, 1854.

¹ Accepted November 13, 1854. Yeas, 9,166; nays, 990.

SPECIAL LAWS

RELATING TO THE

CITY OF BOSTON.

1692-3. — CHAPTER 13.

AN ACT FOR BUILDING WITH STONE OR BRICK IN THE TOWN OF BOSTON, AND PREVENTING FIRE.

WHEREAS great desolations and ruines have sundry times happened by fires breaking out in the town of Boston, principally occasioned by reason of the joyning and nearness of the buildings, being mostly of timber and covered with shingle; for the better preventing of such accidents for the future, and damage and loss thereby, —

Be it ordained and enacted by the Governour, Council and Representatives, convened in General Court or Assembly, and it is enacted by authority of the same:

Buildings in Boston to be of brick or stone, and covered with slate.
1871, 280.

Governor and Council to grant license to build with timber, in case, etc.

Penalty for transgressing this act.

Justices and selectmen to lay out streets, etc.
12 Allen 238.

[SECTION 1.] That henceforth no dwelling-house, shop, warehouse, barn, stable or any other housing of more than eight feet in length or breadth, and seven feet in height, shall be erected and set up in Boston, but of stone or brick, and covered with slate or tyle, unless in particular cases where necessity requires, — being so judged and signified in writing under the hands of the justices and selectmen of the said town, or major part of both, — the governour, with the advice and consent of the council, shall see cause to grant license unto any person to build with timber or cover with shingle. And if any person shall presume to erect, or cause to be erected, any frame or building contrary hereto, upon conviction thereof before two justices of the peace (*quorum unus*), such building shall be deemed a common nuisance; and the owner of such frame or building shall enter into a recognizance to demolish the same, and, in default of entering into such recognizance, shall be committed to prison until he do cause the same to be demolished, or else such building shall be demolished by order of the quarter sessions of the peace within the said county, and the charge thereof to be levied by distress and sale of such offender's goods, by warrant from the court of quarter sessions.

And it is further ordered and enacted:

[SECT. 2.] That in all void and unbuildt places which shall hereafter be improved for building, or when at any time any total consumption or desolation shall happen in any street or lane within the said town, it shall be in the power of the justices of the peace of said town then in being, together with the selectmen, or the major part of both, to state and lay out such streets, ways, and passages as may be most for the conveniency and accommodation of the place; as also where any desolation has happened, to regulate and enlarge other

narrow and crooked lanes or passages. And where any particular persons shall have their land taken away or lessened thereby, a jury of twelve men shall be appointed by two justices of the peace, and sworn to ascertain the value thereof, to be paid by the person to whose land the same shall be added, or by the neighbourhood or town, in proportion to the benefit or conveniency any shall have thereby. And every person building, as aforesaid, with brick or stone shall have liberty to set half his partition wall in his neighbor's ground so that he leave toothing in the corners of such walls for his neighbour to adjoyn unto, who, when he shall build, such neighbour adjoining shall pay for one half of the said partition wall, so far as it shall be built against.¹ And in case of any difference arising, the selectmen shall have power to appoint meet persons to value the same or lay out the line between such neighbours.

A jury to ascertain the value of any person's land laid to any street.

Party wall to stand half in the neighbor's ground.
130 Mass. 317, 321.

And whereas several houses and other buildings have been erected and set up since the year one thousand six hundred and eighty-eight, contrary to the law made by the general court of the Massachusetts Colony,—

It is hereby ordained and enacted by the authority aforesaid :

[SECT. 3.] That every owner of such house or buildings so set up contrary to said law, shall cause the same to be covered with slate or tyle; or otherwise such houses or buildings shall be deemed a common nuisance, and the owner thereof proceeded against accordingly.

And be it further enacted and declared by the authority aforesaid :

[SECT. 4.] That when any fire shall happen to break out either in Boston or any other town within this province, two or three of the chief military or civil officers of the same town shall, or may, and hereby are impowred to give directions for the pulling down or blowing up any such house or houses that shall be by them adjudged meet to be pulled down or blown up for the stopping and preventing the further spreading of the same. And if it shall happen that the pulling down or blowing up any such house or houses by the directions aforesaid, shall be the occasion of stopping the said fire, or that the fire stop before it come to the same, that then all and every owner of such house or houses shall receive reasonable satisfaction, and be paid for the same by the rest of the inhabitants whose houses shall not be burnt; who are hereby impowred to make such rate or rates, for the raising and levying such sum and sums of money as shall be thought convenient by the selectmen and justices of said town for that end; *provided, always*, that, if the house where the fire shall first begin and break out shall be adjudged fit to be pulled down or blown up to hinder the further spreading and increase of the same, that then the owner of such house shall receive no manner of satisfaction for the same, anything in this act contained notwithstanding.

Two or three of the chief military officers to order the pulling down or blowing up of houses to stop fire.

Where the fire is stopped by pulling down or blowing up any house, the owner to be paid.

Proviso.

October 25, 1692.

¹ "This provision does not appear to have been repealed, although other sections of the Province law have been modified or superseded by later statutes." GRAY, O. J., in *Quinn v. Morse*, 130 Mass. 321.

In consequence of the above suggestion the act was printed, but while this book was going through the press the case of *Wilkins v. Jewett*, involving the validity of this provision, was decided, February 28, 1885, and the court, Chief Justice Morton delivering the opinion, say: "We are of opinion that this provision of the provincial statute was never in force in the Commonwealth of Massachusetts."

1741-2. — CHAPTER 5.

AN ACT FOR THE BETTER REGULATING PORTERS EMPLOYED WITHIN THE TOWN OF BOSTON.

Preamble.

WHEREAS, the trade and business managed in the town of Boston, between the inhabitants thereof and others trafficking there, occasions many persons to resort to and attend about the wharves, docks and other parts of the town, to convey and carry goods, wares and merchandizes from place to place, some of whom are not so well known as such an employment requires, others of no good character, yet, oftentimes, have goods of a considerable value put into their custody for conveyance as aforesaid; and some taking upon them the business of porters, impose upon those making use of them, more especially strangers, by exacting exorbitant wages for their labour, or refusing business, tho not before employed, if they cannot have their unreasonable demands; therefore, to void such inconveniencies for the future, —

Be it enacted by His Excellency the Governour and Representatives in General Court assembled, and by the authority of the same :

Selectmen of Boston to appoint porters,

[SECTION 1.] That the selectmen of the town of Boston, for the time being, shall have full power and authority to order what number, and who shall be employed, and take upon them the business of carrying goods, wares and merchandizes, for pay or wages, as common porters within the said town; and what rate or price such persons shall ask, receive and take for their labour, service, and attendance, according to the distance of place or other circumstances, the selectmen shall order and ascertain; all which persons, so admitted by the selectmen, shall at all times, when in the service or doing the business of porters, wear a badge or ticket, with the figure of a pine-tree marked thereon, on some part of his upper garment or girdle; which badge or ticket shall be numbred, and a fair entry of each porter's ticket made in the selectmen's book, as also the wages they are to ask and receive, within ten days after the approbation of the selectmen as aforesaid.

— who are to wear badges numbered.

Selectmen to state their wages.

Fine for serving as porter without license.

[SECT. 2.] *And be it further enacted by the authority aforesaid,* that whosoever shall presume to take up the business and employ of a common porter, and convey or carry goods and merchandize from place to place within the town of Boston, for hire or wages, without being admitted by the selectmen as aforesaid, shall forfeit and pay the sum of twenty shillings for every time he shall be convicted thereof before any one of his majesty's justices of the peace within the county of Suffolk, at Boston aforesaid; the one-half of which fine or forfeiture shall be disposed of to and for the use of the poor of the town of Boston, the other half to him or them that shall inform and sue for the same.

Penalty for parties asking more for their work than allowed by selectmen.

[SECT. 3.] *And be it further enacted,* that whosoever, being admitted as a porter, as aforesaid, shall ask, take, and receive any more than what the selectmen shall allow for any work or service, shall, for every such exaction, forfeit and pay the sum of twenty shillings, to be recovered and disposed of as by this act is already directed; and if any person, admitted and approved of as aforesaid, as a common porter, shall officiate or concern himself in the business of transporting goods or merchandize, not having his badge or ticket, shall, for every such breach of this act, forfeit and pay the sum of twenty shillings, to be recovered and disposed of as aforesaid.

Penalty for officiating without badge.

Selectmen to take security for the porter's fidelity.

[SECT. 4.] *Be it further enacted,* that the selectmen shall require and take bond of each one of the porters, admitted as aforesaid, with sufficient surety, in a sum not exceeding fifty pounds, for their

orderly and faithful acting in the business, more especially their safe conveying and delivering such goods as shall be committed to them; and that, upon complaint made to the selectmen, that any whom they may have admitted as aforesaid do not behave and conduct themselves orderly, peaceably and quietly towards their employers, it being made to appear, the party accused being seasonably notified thereof, such person may be removed, and other meet and orderly persons admitted in his room.

Disorderly porters to be removed.

[SECT. 5.] *Provided*, this act be in force and so continue for the space of seven years from the publication thereof, and no longer.¹

Limitation.

August 8, 1741.

1772. — CHAPTER 3.

AN ACT FOR INCORPORATING THE OVERSEERS OF THE POOR OF THE TOWN OF BOSTON.

WHEREAS, many charitably disposed persons have given and bequeathed considerable sums of money and other interest and estate to the poor of the town of Boston and their use, and many other persons are well inclined to make charitable donations to the same good purpose, but the overseers of the poor of the same town not being incorporated, the good intentions of those who have made and those who incline to make such charitable donations, have been either wholly frustrated or not carried into full effect,

Preamble.

Be it therefore enacted by the Governor, Council, and House of Representatives,

[SECTION 1.] That the said overseers for the time being of the poor of the town of Boston in the county of Suffolk and province of the Massachusetts bay be created, made, erected and incorporated into a body-politic by the name of the Overseers of the Poor of the Town of Boston in the Province of the Massachusetts Bay in New England, and that they and their successors in said office have a perpetual succession by said name.

Overseers of the Poor incorporated.
22 Pick. 122.

[SECT. 2.] *Be it further enacted*, that all and singular sum and sums of money, interest and estate, real or personal of what name or nature soever, heretofore given, or at any time hereafter to be given, granted, bequeathed or devised by any way or means whatsoever to the poor of the same town or to their use, not exceeding the sums and value in this act after mentioned, be and the same hereby is and shall be to all intents and purposes vested in the same Overseers and their said successors in their said corporate capacity; and they are hereby enabled in the same capacity to receive, manage, lease, let and dispose the same according to their best discretion to and for the use and benefit of the poor of the same town.

Their power.

[SECT. 3.] *Provided, always, and be it hereby enacted*, that the said overseers shall not be able to receive or be capable of having or holding any moneys or personal estate of any kind or nature whatsoever at any time, above and beyond the sum and amount of sixty thousand pounds lawful money of this province, accounting and reckoning the whole moneys and value of all the personal estate, personal securities, and choses in action, which they shall own or be vested withal in their corporate capacity together. And that all gifts and bequests of money or personal estate of any kind made to the said corporation, or which by the tenor of this act they might take

Proviso.

¹ This act was continued from time to time until March 7, 1797, when it was made perpetual by an act entitled "An act to make perpetual sundry temporary acts." St. 1796, c. 60.

or be vested with, shall be utterly void at all times hereafter when their whole stock in moneys, personal securities or choses in action, and personal estate which the said corporation shall have, own and be vested with the property of, shall, taken and reckoned together, amount to the said sum of sixty thousand pounds.

To have perpetual succession.

[SECT. 4.] *Be it further enacted*, that the said overseers and their successors in said office by the name aforesaid have a perpetual succession; by that name to sue or be impleaded, by its said corporate name to purchase lands and hold them, not exceeding the sum of five hundred pounds lawful money by the year, and to manage, lease, bargain and sell, or otherwise dispose of, all or any part thereof, and do all other acts as natural persons may, as from time to time the said corporation shall judge best for the benefit, advantage and use of the said poor.

To have a seal and make by-laws.

[SECT. 5.] *Be it further enacted*, that the said corporation shall have a common seal and power, and the said corporation is hereby authorized to make by-laws and private statutes and ordinances not repugnant to the laws of the land, for the better government of the said corporation and its finances, to chuse a treasurer, clerk, and other subordinate officers, as from time to time shall be found necessary, and all or any of them again at pleasure to displace.

Acts done by a major part to be valid.

[SECT. 6.] *Be it further enacted*, that all instruments which said corporation shall lawfully make by the name aforesaid, and sealed with their common seal, and all acts done or matters passed upon, by the consent of the major part of the said overseers for the time being, shall bind said corporation and be valid in law.

April 23, 1772.

[1802, 44; 1864, 128; 1868, 183; 1875, 73.]

1799. — CHAPTER 31.

AN ACT TO REGULATE THE PAVING OF STREETS IN THE TOWN OF BOSTON, AND FOR REMOVING OBSTRUCTIONS IN THE SAME.

Be it enacted, etc. :

Foot-walk to be one-sixth of the street's width, and how paved. 1833, 128. P.S. c. 50, §§ 20-25. R.O. c. 26, §§ 62-72.

SECTION 1. [That all streets shall hereafter be paved in the town of Boston agreeable to the following regulations, viz. : the foot-path or walk on each side of every street shall be of the breadth of one-sixth part of the width of the whole street; and shall be laid or paved with bricks or flat stones, and secured with a beam or cut stone along the outside thereof: and the middle or remaining four-sixths of every street shall remain as a passage-way for carriages of burthen or pleasure; and shall have a gutter on each side thereof, or otherwise as the surveyors of highways in the said town shall determine, and shall be paved with good and sufficient paving-stones: *provided, always*, that if in any street so to be paved the sides shall not exactly range, the gutter, or outside of the foot-walk, shall be laid out as nearly in a straight line as the street will admit of: and in all squares and other large open spaces, and in all streets, the breadth of which shall not conform to this law, the breadth of the foot-walk, and the ascent and descent, and the crowning of the pavement in every street, shall be regulated by the surveyors of highways.]

16 Pick. 504.

Provision for squares and narrow streets.

Foot-walk to be paved where the cart-way is.

SECT. 2. [*And be it further enacted*, that where the cart-way in any public street shall be hereafter ordered to be paved, every owner of the lot or lots of ground upon such street shall, without delay, at his own cost, cause the foot-way in front of his ground to be paved with bricks or flat stones, and supported by timber or hewn stones, and kept in repair; the same

1800, 23.

to be done under the direction of, and to the approbation of the surveyors of highways: and if the owner or owners of such lots shall neglect to pave with bricks or flat stones, and to support the foot-way, for the space of twenty days after he, or the tenant of such lot, or the attorney of the said owner or owners, shall have been thereto required by any of the surveyors of highways, then it shall be lawful for the said surveyors of highways, and they are hereby enjoined and required, to pave the said foot-ways with brick or flat stones, and to support and to defend the same, and to repair the same, and shall recover the whole amount thereof by action of the case, to be brought by the surveyors of highways, before any court proper to try the same: *provided, nevertheless*, that in all cases where applications may be made for new paving of streets, any individuals who may be affected thereby, may make their objections to the selectmen, or surveyors of highways, who are directed to take them into consideration while deliberating on the expediency of said application, and to pave the same at the expense of said town whenever they shall think it expedient: *provided, also*, that where there are any vacant lots of land in any such streets, the surveyors of highways may, at their discretion, allow the owner or owners thereof to cover the foot-path with planks, which shall be removed, and the brick or flat stone pavement shall be completed whenever it may become necessary in the judgment of said surveyors.]

Case of owners neglecting to pave.

Provision for aggrieved individuals.

Planks may be used before vacant lots.

SECT. 3. *And be it further enacted*, that the selectmen of the said town of Boston for the time being, whenever in their opinion the safety and convenience of the inhabitants of said town shall require it, shall be, and they hereby are empowered, to lay out or widen any street, lane, or alley of said town, and for that purpose to remove any building or buildings of what nature soever; and the owner or owners of such building shall be entitled to receive compensation for the damages which he or they may sustain by such removal, which damages shall be ascertained, determined, and recovered in the way and manner pointed out in the act of this commonwealth, entitled "An act directing the method of laying out highways."

Selectmen empowered to widen streets, etc.
1870, 337.
2 Pick. 182.

l.S. 40.

SECT. 4. *And be it further enacted*, that no canopy, balcony, platform of cellar-door, or step in any street, lane, or alley, in the town of Boston, shall project into such street more than one-tenth part of the width of the street, and in no case more than three feet; and all cellar-doors hereafter to be made or repaired, shall be built with upright cheeks, and shall not project from the line of the house more than six inches: and if any proprietor or owner of any such canopy, balcony, platform or cellar-door, or steps, shall refuse or neglect to remove or take down the same, within five days after notice and direction given him or them by the surveyors of highways, or any person empowered by them to that purpose, such owner or proprietor shall forfeit and pay the sum of two dollars for each and every day the same shall remain after the expiration of the said five days.

Balconies, cellar-doors, etc., regulated.
R.O. c. 26, §§ 28, 29.
115 Mass. 217.
117 Mass. 114.

SECT. 5. *And be it further enacted*, that no post shall be erected or set in any of the streets of the said town of Boston except at the corners or intersection of two streets, and in such other places as the surveyors of highways may authorize and direct, and the said surveyors may remove the same: and no person shall plant any tree in any street in the said town of Boston, without leave first obtained from the surveyors of highways, who shall have power to remove the same: [and if any person shall drive any horse or cart, or any wheel carriage of burthen

Posts and trees not to be put in streets without consent of the surveyors of highways.

Penalty for wheeling barrows, etc., on foot-walk.
1847, 224.
R.O. c. 26, § 65.

¹ This provision was repealed by St. 1847, c. 224.

Directions respecting bow-windows, etc.
F. S. c. 28 § 24.
1882, 252.
117 Mass. 114.
128 Mass. 330.
135 Mass. 197.

or pleasure, or wheel any wheelbarrow on the foot-walk of any street in said town of Boston, such person shall forfeit and pay the sum of one dollar for every such offence, to be recovered by action of debt, in the name of the surveyors of highways, before any justice of the peace in the county of Suffolk:] [¹ and no person shall in future make, erect or have any portico or porch, any bow-window, or other window, which shall project into the streets of the said town of Boston, more than one foot beyond the front of his or her house; or hang any sign, or any goods, wares, or merchandize, which shall project into the street more than one foot beyond the front of his or her house or lot: and if any person shall hereafter offend against this provision, every person so offending, shall forfeit and pay the sum of one dollar for each and every day such portico or porch, bow-window or other window shall be continued, after notice given to him by the surveyors of highways, or by any person by them authorized to that purpose.]

Merchandise not to be placed in the streets.
R.O. c. 26, § 42.

SECT. 6. *And be it further enacted*, that if any person or persons shall continue to place in the street, contrary to the meaning of this act, any goods, wares, or merchandizes, it shall be lawful for the surveyors of highways of the said town of Boston, or any person empowered by them, to remove such goods, wares, and merchandizes, and to keep them in safe custody; and the proprietor or owner of such goods, wares, and merchandize, shall not have the same goods restored, until he or they shall have paid to the person or persons so removing them, all expenses of removing and storing them, and a reasonable compensation for the time so employed in their removal, as well as the fine aforesaid: and if any person shall place or pile any empty boxes, barrels, hogsheads, or other conveniency capable of containing goods or merchandize, or that may have contained goods or merchandize, in any part of the streets of the said town of Boston, more than five minutes after notice given to remove the same, such person shall forfeit and pay the sum of two dollars, for each and every such offence, to be recovered by action of debt, by the surveyors of highways, before any justice of the peace in the said county.

SECT. 7. [Repealed by St. 1847, c. 224, § 3.]

Disposal of fines.

SECT. 8. *And be it further enacted*, that all the forfeitures and fines which may be recovered in pursuance of this act, shall go and be distributed one moiety thereof to the poor of the town of Boston, and the other moiety to the surveyors of highways.

June 22, 1799.

[1804, 78; 1809, 28; 1816, 90; 1831, 17; 1833, 128; 1870, 337; 1872, 322; 1877, 228; 1878, 75; P.S. 49, § 84.]

1802. — CHAPTER 7.

AN ACT REGULATING THE COLLECTION OF TAXES IN THE TOWN OF BOSTON, AND PROVIDING FOR THE APPOINTMENT OF CONSTABLES IN THE SAID TOWN.

Be it enacted, etc.:

Selectmen to appoint constables.

SECTION 1. That the selectmen of the town of Boston be, and they are, hereby empowered to appoint annually such a number of persons as constables in the said town as the public service may require; and the said constables so appointed shall give bonds to the treasurer of the town of Boston, in such sums, and on such conditions, as the said selectmen shall think proper, for the faithful

¹ The construction of bow-windows and other projections is now controlled by St. 1882, c. 252, § 3.

performance of the duties of their office: and the constables so appointed by the selectmen, shall have the same powers as are by law vested in constables chosen by the towns of this commonwealth.

SECT. 2. [*And be it further enacted*, that the inhabitants of the town of Boston shall assemble annually on the first Wednesday in April, in their respective wards, and shall then choose and appoint two persons in each of their respective wards to assist the assessors in taking a list of the polls, in estimating the value of their personal property, and in appraising the value of all real estates in their own wards; and the twenty-four persons thus chosen shall meet and appoint three persons, whom they shall judge best qualified to serve the town in the office of assessors, the ensuing year, which assessors shall have the same powers as are vested by law in assessors chosen by other towns in this commonwealth: and in case of the death or resignation of any person so chosen, in either of the wards, the clerk of such ward is empowered and directed to call a new meeting of the ward to choose a suitable person to supply the place of the person so dead or declining to serve.]

Assistant assessors to be appointed.

Charter, ante, p. 7, §§ 86, 87.

1884, 123.

SECT. 3.¹ [*And be it further enacted*, that the treasurer of the town of Boston shall be the collector of taxes in the said town, and shall be, and hereby is empowered to substitute and appoint under him, such and so many deputies or assistants, as the service may be found to require, who shall give bonds for the faithful discharge of their duty, in such sums, and with such sureties, as the selectmen of said town shall think proper: and the said collector, and his deputy or deputies, shall have the same powers as are vested by law in collectors of taxes, chosen by other towns in this commonwealth.]

Town treasurer to be collector of taxes.

1875, 176.

SECT. 4. [Repealed by St. 1811, c. 47.]

June 18, 1802.

[1803, 15; 1807, 134; 1814, 165; 1860, 147; 1875, 176.]

1802. — CHAPTER 44.

AN ACT TO INCORPORATE OLIVER WENDELL, AND OTHERS, TOGETHER WITH THE OVERSEERS OF THE POOR OF THE TOWN OF BOSTON, FOR THE TIME BEING, BY THE NAME AND TITLE OF THE TRUSTEES OF JOHN BOYLSTON'S CHARITABLE DONATIONS, FOR THE BENEFIT AND SUPPORT OF AGED POOR PERSONS, AND OF ORPHANS AND DESERTED CHILDREN.

Be it enacted, etc.:

SECTION 1. That Oliver Wendell, William Cooper, Ebenezer Storer, and William Smith, all of Boston, and John Pitts, of Tyngsborough, in the County of Middlesex, Esquires, and the survivors and survivor of them, together with the overseers of the poor of the town of Boston for the time being, and their successors; and after the decease of the said Oliver Wendell, William Cooper, Ebenezer Storer, William Smith, and John Pitts, the said overseers of the poor of the town of Boston for the time being, and their successors forever, be, and they hereby are, incorporated into a body politic, by the name and title of the Trustees of John Boylston's Charitable Donations, for the Benefit and Support of Aged Poor Persons, and of Orphans and Deserted Children, and by that name and title shall have perpetual succession.

Persons incorporated.

SECT. 2. *And be it further enacted*, that all the bequests,² devises, and donations made and granted by John Boylston, late of Bath,

This act and the clauses of the will to be recorded.

¹ By St. 1875, c. 176, the offices of treasurer and collector of taxes were separated, and the powers of the treasurer in relation to the collection of taxes were vested in the collector of taxes.

² See will of John Boylston, Suffolk Reg. Prob., vol. 94, p. 17.

in the kingdom of Great Britain, deceased, for the purposes above mentioned, be, and they hereby are, vested in the said corporation, to be held and disposed of by them conformably to the directions of the said will: and the said corporation shall insert among their records a copy of this act and also of all the clauses of the said last will and testament which have relation to the said two several charitable donations, for the benefit of aged poor persons, and for the support of orphans and deserted children; and in the management and disposal of the funds granted in said will, the said corporation shall conform to, and be governed by the directions therein contained.

Amount of real and personal estate which may be held.

SECT. 3. *And be it further enacted*, that the said corporation shall have a perpetual succession, by the name and title aforesaid, to sue or be impleaded; to purchase and hold lands or other real estate, not exceeding the value of three thousand dollars by the year; to hold personal estate not exceeding the value of sixty thousand dollars; and to manage, lease, bargain and sell, or otherwise dispose of, all or any part thereof, subject to the directions of the said will; and to do all acts as natural persons may do, as the said corporation from time to time shall judge best, to carry into effect the charitable intentions of the said will: and the real or personal estate which the said corporation are hereby empowered to hold, shall not be considered as part of that which the Overseers of the Poor of the Town of Boston are already empowered by their former act of incorporation to hold, but as altogether distinct and separate from the same.

By-laws may be made and officers chosen.

SECT. 4. *Be it further enacted*, that the said corporation shall have a common seal, with power to break and alter the same; and said corporation is hereby authorized to make by-laws, and private statutes and ordinances, not repugnant to the laws of the land, for the better government of said corporation and its finances; to choose a treasurer, clerk, and other subordinate officers, as from time to time shall be found necessary, and all or any of them again at pleasure to displace.

SECT. 5. *And be it further enacted*, that all instruments which said corporation shall lawfully make by the name aforesaid, and sealed with their common seal, and all acts done, or matters passed upon by the consent of a major part of the members of said corporation, shall bind the said corporation, and be valid in law.

February 3, 1803.

[1813, 171.]

1803. — CHAPTER 15.

AN ACT IN ADDITION TO AN ACT ENTITLED "AN ACT REGULATING THE COLLECTION OF TAXES IN THE TOWN OF BOSTON, AND PROVIDING FOR THE APPOINTMENT OF CONSTABLES IN THE SAID TOWN."

Be it enacted, etc.:

Treasurer to collect taxes outstanding at the time of his election. 1875, 176.

SECTION 1. That the treasurer of said town of Boston, his deputy or deputies, shall be empowered to collect all such taxes as may be outstanding and uncollected at the time of his being chosen to the office of treasurer, such treasurer and his deputies first giving bonds for the faithful discharge of their duty, in such sums and with such sureties as the selectmen of said town shall think proper.

To issue warrant to his deputies.

SECT. 2. *And be it further enacted*, that the said treasurer may issue his warrant to his deputy or deputies for the collecting and gathering in such part of the rates or assessments as, in his discretion, he shall think proper to commit to such deputy or deputies,

which warrant shall be in the same tenor with the warrant prescribed to be issued by the selectmen or assessors for the collecting and gathering in of the state rates or assessments, *mutatis mutandis*.

June 18, 1803.

[1802, 7; 1807, 134; 1875, 176.]

1803. — CHAPTER 111.

AN ACT TO SET OFF THE NORTH-EAST PART OF THE TOWN OF DORCHESTER, AND TO ANNEX THE SAME TO THE TOWN OF BOSTON.

Be it enacted, etc. :

SECTION 1. That all that part of Dorchester lying north-east of the following line, viz. : Beginning at a stake and stones at Old Harbor, so called, at the south-west corner of land formerly belonging to John Champney, running north thirty-seven and one half degrees west, to a large elm tree, marked D on the south-west side, and B on the north-east side, standing on land belonging to the heirs of Thomas Bird, deceased ; then running the same course to a heap of stones, on the south-east side of the road ; thence across the road, the same course, to a heap of stones on the north-west side ; thence on the same course to a black oak tree, standing on a small hummock, marked D on one side, and B on the other side, upon land of Ebenezer Clap, jun. ; thence the same course till it comes to Boston harbor, with the inhabitants thereon, be, and they hereby are, annexed to the town of Boston, in the county of Suffolk, and shall thereafter be considered and deemed to be a part of the town of Boston : *provided*, that the said tract of land, and the inhabitants thereon, set off as aforesaid, shall be holden to pay all such taxes as are already assessed, or ordered to be assessed, by said town of Dorchester, in the same manner as they would have been if this act had not been passed.

Boundaries of land set off.

Proviso respecting taxes.

SECT. 2. *And be it further enacted*, that the proprietors of said tract shall assign and set apart three lots of land on the same for public use, viz. : one lot for the purpose of a public market place, one lot for a school-house, and one lot for a burial-ground, to the satisfaction and acceptance of the selectmen of the town of Boston ; or in case the said selectmen and proprietors shall not agree upon the said lots, it shall be lawful for the supreme judicial court, at any session thereof in the said county of Suffolk, upon application of the said selectmen, to nominate and appoint three disinterested freeholders within the commonwealth, and not inhabitants of said town of Boston, to assign and set off the three lots aforesaid by metes and bounds ; and the report of said freeholders, or any two of them, being made and returned to, and accepted by, the said court, at any session thereof in said county, shall be final and binding upon all parties ; and the lots of land by them assigned and set off as aforesaid shall thenceforth vest in the said town of Boston forever, without any compensation to be made therefor by the town ; but if the person or persons whose lands shall be assigned and set apart as aforesaid shall demand compensation therefor, the same shall be appraised by three freeholders, to be appointed as aforesaid, who shall also assess upon the other proprietors the sum or sums which each shall be holden to pay to the person whose lands may be thus assigned for public use ; and the report of said freeholders, or any two of them, being made and returned to, and accepted by, said court, judgment thereon shall be final, and execution awarded, as in cases of reports by referees under a rule of court.

Lots for public use.

Selectmen to
lay out streets,
etc.
16 Pick. 442, 504.
8 Cush. 290.
6 Cush. 1.
12 Cush. 574.
1 Gray 203.
14 Gray 232.

Proviso.

SECT. 3. *And be it further enacted*, that the selectmen of the said town shall be, and hereby are, authorized to lay out such streets and lanes through the said tract as in their judgment may be for the common benefit of said proprietors and of said town of Boston, a reasonable attention being paid to the wishes of the proprietors; and in case of disagreement between the selectmen and proprietors, or either of them, the same proceedings shall be had as are provided by law in other cases for laying out town-ways: *provided, only*, that no damages or compensation shall be allowed to any proprietor for such streets or lanes as may be laid out within twelve months from the passing of this act: and *provided, also*, that the town of Boston shall not be obliged to complete the streets laid out by their selectmen pursuant to this act, sooner than they may deem it expedient so to do.

March 6, 1804.

1804. — CHAPTER 73.

AN ACT IN ADDITION TO AN ACT ENTITLED "AN ACT TO REGULATE THE PAVING OF STREETS IN THE TOWN OF BOSTON, AND FOR REMOVING OBSTRUCTIONS IN THE SAME."

Be it enacted, etc.:

Selectmen em-
powered to lay
out and widen
streets.
11 Mass. 447.
2 Pick. 162.

That the selectmen of the town of Boston for the time being, whenever in their opinion the safety or convenience of the inhabitants of said town shall require it, shall be, and they hereby are, empowered to lay out any new street, or to widen any street, lane, or alley of said town, and for that purpose to take any land that may be required for the same, and to remove any building or buildings, of what nature soever; and the same street, lane, or alley being recorded in the town's books, shall be thereby established as such; and the owner or owners of the land or buildings that shall be so taken or removed, shall receive such recompense for the damages which he or they may thereby sustain, as the party interested and the selectmen shall agree upon, to be paid by the town or the individual person or persons for whose use such street, lane, or alley is laid out or widened, or as shall be ordered by the justices of the court of general sessions of the peace, upon an inquiry into the same by a jury to be summoned for that purpose, who shall be drawn out of the jury box of the supreme judicial court of the town of Boston by the selectmen of said town, upon the application of the sheriff of the county of Suffolk, and if, by accident or challenge, there should happen not to be a full jury, said officer shall fill the panel *de talibus circumstantibus* as in other cases; or by a special committee, if the parties agree thereunto.

March 4, 1805.

[1799, 31; 1870, 337; 1872, 322; 1877, 228; 1878, 75; P.S. 49, § 84.]

1807. — CHAPTER 134.

AN ACT IN ADDITION TO AN ACT ENTITLED "AN ACT REGULATING THE COLLECTION OF TAXES IN THE TOWN OF BOSTON, AND PROVIDING FOR THE APPOINTMENT OF CONSTABLES IN THE SAID TOWN."

Be it enacted, etc.:

Treasurer au-
thorized in case
of delinquents.
1875, 176.

SECTION 1. That the treasurer and collector of the town of Boston, be, and he hereby is, authorized to issue his warrant to the sheriff of the county of Suffolk, his deputy, or to any constable of the town of Boston, directing them to distrain the persons or property of any

person or persons who may be delinquent in the payment of taxes, after the time has expired, that is or may be fixed for payment, by any vote of said town. Which warrants shall be of the same tenor with the warrant prescribed to be issued by selectmen or assessors for the collecting or gathering in of the state rates or assessments, *mutatis mutandis*. And the said officers shall make a return of their warrants, with their doings thereon, to the said treasurer and collector, within thirty days from the date thereof: *provided, however, that* ^{Proviso.} nothing in this act shall prevent the said treasurer and collector, whenever there may be a probability of losing a tax, from distraining the person or property of any individual before the expiration of the time fixed by the votes of said town.

SECT. 2. *Be it further enacted*, that it shall be the duty of said ^{Duty of civil officers.} officers to execute all warrants they may receive from said treasurer and collector, pursue the same process in distraining the persons or property of delinquents, as collectors of taxes are now by law authorized to do and perform; and for collecting the sum of money due on said warrant, receive the fees that are allowed by law for levying executions in personal actions: *provided, however,* ^{Proviso.} before the said officers shall serve any warrant, they shall deliver to the delinquent, or leave at his or her usual place of abode, a summons from said treasurer and collector, stating the amount due; and that unless the same is paid within ten days from the time of leaving said summons into the town treasury, with twenty cents for said summons, his or her property will be distrained according to law.

SECT. 3. *Be it further enacted*, that the constables of the town of Boston, in addition to the usual condition of their bonds, shall also be bound to the faithful execution of all warrants committed to them by the treasurer and collector of said town.

March 12, 1808.

[1802, 7; 1803, 15; 1814, 165; 1860, 147; 1875, 176.]

1809. — CHAPTER 28.

AN ACT IN ADDITION TO THE SEVERAL ACTS NOW IN FORCE TO REGULATE THE PAVING OF STREETS IN THE TOWN OF BOSTON, AND FOR REMOVING OBSTRUCTIONS IN THE SAME.

Be it enacted etc.:

SECTION 1. That in paving or repairing the pavement of any street in the town of Boston, in future, no person shall place timber or wood, in front of his or her house or lot, to support the foot-walk; but the same shall be supported with hammered or cut stone, anything in the second section of the act, to which this is in addition, passed the twenty-second day of June, in the year of our Lord one thousand seven hundred and ninety-nine, to the contrary notwithstanding.

SECT. 2. [Sections two and three repealed by St. 1847, c. 224, § 3.]

June 19, 1809.

[1799, 81; 1804, 73; 1816, 90; 1833, 128.]

1810. — CHAPTER 124.

AN ACT TO PREVENT LIVERY STABLES BEING ERECTED IN CERTAIN PLACES
IN THE TOWN OF BOSTON. .

Be it enacted, etc. :

Livery stables.
1880, 109.
1 Gray 163.

Proviso.

SECTION 1. That from and after the passing of this act, no building shall be erected within the town of Boston, and used and improved as a stable, for the taking in and keeping horses or chaises. or other carriages, upon hire, or to let, commonly called livery stables, within one hundred and seventy feet of any church or meeting-house erected for the public worship of God: *provided, however*, that this act shall not be so construed as to prevent the finishing of any stable which has been in part erected, if the completion thereof shall be approved by the selectmen of the town of Boston.

SECT. 2. *Be it further enacted*, that for any offence against the provision of this act, the owner or owners, keeper or keepers, of such building shall forfeit and pay the sum of one hundred dollars for every calendar month during which the same shall be so used and improved, to be recovered by action of debt, one-half thereof to enure to the use of the poor of the town of Boston, and the other half thereof to him or them who shall sue for the same.

February 28, 1811.

[1860, 109; 1869, 369; 1878, 192.]

1813. — CHAPTER 171.

AN ACT IN ADDITION TO AN ACT ENTITLED "AN ACT TO INCORPORATE OLIVER WENDELL AND OTHERS, TOGETHER WITH THE OVERSEERS OF THE POOR OF THE TOWN OF BOSTON, FOR THE TIME BEING, BY THE NAME AND TITLE OF THE TRUSTEES OF JOHN BOYLSTON'S CHARITABLE DONATIONS, FOR THE BENEFIT AND SUPPORT OF AGED POOR PERSONS, AND OF ORPHANS AND DESERTED CHILDREN."

Be it enacted, etc. :

Corporation authorized to bind out poor persons.

That the corporation constituted by an act, entitled "An act to incorporate Oliver Wendell and others, together with the overseers of the poor of the town of Boston, for the time being, by the name and title of The Trustees of John Boylston's Charitable Donations, for the Benefit and Support of Aged Poor Persons, and of Orphans and Deserted Children," be, and hereby are, authorized and empowered to bind out in virtuous families, or to reputable trades, or useful arts or occupations, such poor persons, orphans, or deserted children, as receive, or may hereafter receive, the benefit of the said Boylston's charitable donations, until they arrive to the age of twenty-one years, in such manner as to the said corporation may seem expedient; and for this purpose shall have authority to establish any rules and regulations, and enter into any indenture or covenant relative to such objects, not repugnant to the laws of this commonwealth, as the said corporation may deem necessary or expedient.

February 26, 1814.

[1802, 44.]

1814. — CHAPTER 165.

AN ACT FOR REGULATING THE PROCEEDINGS IN SUITS UPON CONSTABLES
BONDS IN THE TOWN OF BOSTON.*Be it enacted, etc.:*

SECTION 1. That when the condition of any bond which now is, ^{Bond broken.} or may hereafter be given to the treasurer of the town of Boston by any constable of said town, for the faithful performance of the duties of his office, shall be broken, to the injury of any person, such person may cause a suit to be instituted upon such bond, at his own costs, but in the name of the treasurer of the town of Boston, and the like indorsements shall be made on the writ, and the like proceedings be had thereon to final judgment and execution, and the like writs of *scire facias* on such judgment as may be made, and had by a creditor on administration bonds given to any judge of probate: *provided, however,* that no such suit shall be instituted by ^{Proviso.} any person for his own use, until such person shall have recovered judgment against the constable, his executors or administrators, in an action brought for the malfeasance or misfeasance of the constable, or for non-payment of any moneys collected by the said constable in that capacity, or a decree of a judge of probate, allowing a claim for any of the causes aforesaid, and such a judgment or decree or so much thereof as shall be unsatisfied, with the interest due thereon, shall be the proportion of the penalty for which execution shall be awarded: *provided, however,* that this act shall not be ^{Proviso.} construed to make any surety in any bond given by the constable as aforesaid, before the passing of this act, liable to any suit which could not heretofore be legally prosecuted against him.

SECT. 2. *Be it further enacted,* that it shall be the duty of the ^{Duty of the} treasurer aforesaid to deliver an attested copy of any constable's ^{treasurer.} bond to any persons applying and paying for the same; and such attested copy shall be received as evidence in any case: *Provided, nevertheless,* that if in any suit the execution of the bond shall be disputed, the court may order the treasurer to bring the original bond into court.

March 1, 1815.

1816. — CHAPTER 44.

AN ACT TO EMPOWER THE TOWN OF BOSTON TO CHOOSE A BOARD OF
HEALTH, AND TO PRESCRIBE THEIR POWER AND DUTY.¹

SECTION 1. [Repealed by St. 1821, c. 110, § 28.]

SECT. 2. *Be it further enacted,* that said board of health shall ^{Powers.} have power, and it is hereby made their duty, to examine into all ^{1854, 448, § 40.} causes of sickness, nuisances, and sources of filth that may be inju- ^{P. S. c. 80.} rious to the health of the inhabitants of the town of Boston, which ^{R. O. c. 22.} do, or may, exist within the limits of the town of Boston, or on any island, or in any vessel within the harbor of Boston, or within the limits thereof, and the same to destroy, remove, or prevent, as the case may require; and whenever said board shall think it necessary for the preservation of the lives or health of the inhabitants of Boston, to enter forcibly any building, or vessel, having been refused such

¹ By the city charter (St. 1821, c. 110, § 17, and St. 1854, c. 448, § 40) the power and authority of the board of health were vested in the city council, to be carried into execution by one or more health commissioners. For St. 1821, c. 110, see Appendix.

Proviso.

entry by the owner or occupier thereof, within the limits of the said town of Boston or the harbor thereof, for the purpose of examining into, destroying, removing, or preventing any nuisance, source of filth, or cause of sickness aforesaid, which said board have reason to believe is contained in such building or vessel — any member of said board, by order of said board, may apply to any justice of the peace within and for the county of Suffolk, and on oath complain and state, on behalf of said board, the facts, as far as said board have reason to believe the same relative to such nuisance, source of filth, or cause of sickness aforesaid; and such justice shall thereupon issue his warrant, directed to the sheriff of the county of Suffolk, or either of his deputies, or any constable of the town of Boston, therein requiring them or either of them, taking with them sufficient aid and assistance, and also in company with said board of health, or some two members of the same, between the hours of sunrise and sunset, to repair to the place where such nuisance, source of filth or cause of sickness [is] complained of as existing as aforesaid; and there, if found, the same to destroy, remove, or prevent, under the directions and agreeable to the order of said board of health, or such members of the same as may attend and accompany such officer for such purpose: *provided, however*, that no sheriff or deputy-sheriff shall execute any civil process, either by arresting the body or attaching the goods and chattels of any person or persons, under color of any entry made for the purposes aforesaid, unless such service could, by law, have been made without such entry; and all services so made, under color of such entry, shall be utterly void; and the officer making such service shall be considered as a trespasser to all intents *ab initio*. And in all cases where such nuisance, source of filth, or cause of sickness, shall be removed, destroyed, or prevented, in manner aforesaid, the cost of so removing, destroying, or preventing the same, together with all costs attending the proceedings relative thereto, shall be paid by the person or persons who caused, or permitted the same nuisance, source of filth, or cause of sickness, to exist, or in whose possession the same may be found. And, in all cases where any contagious and malignant disorder exists, within the limits of the town of Boston, or on board of any vessel, or on any island, within the harbor of Boston, and, it appearing to said board of health, after the same has been examined into by the physician of said board, or some other respectable physician of the town of Boston, that the public safety requires that any person or persons affected with any contagious, malignant disorder, should be removed to the hospital on Rainsford island, or to any other place within the limits of said town of Boston, on any island in the harbor of Boston, or should be confined or remain in the place where such person or persons thus affected then are; in every such case the said board of health shall pass an order relative to the same, which order all persons dwelling in or occupying such place, building, or vessel, notified thereof by said board, or called on by said board, shall be obliged to obey; and any person refusing to obey such order or resisting any officer or person acting under the authority of said board, or any member of said board, in any of the duties or requirements in this section of this act, shall severally forfeit and pay, for such offence, a sum not less than five, and not exceeding five hundred, dollars, according to the nature and aggravation of the offence.

Rules and orders.

SECT. 3. *Be it further enacted*, that the said board of health shall have power to make such rules, orders, and regulations, from time to time, for the preventing, removing, or destroying, of all nuisances, sources of filth, and causes of sickness within the limits of the town

of Boston, or on board any vessel, or on any island in the harbor of Boston, which they may think necessary; which rules, orders, and regulations, from and after the same have been published in two newspapers printed in the said town of Boston, shall continue in force and be obeyed by all persons, until changed, altered, or repealed by the same board who made them, or by some succeeding board of health. And any person or persons who disobey or violate any such rules, orders, or regulations, so as aforesaid made by such board, shall severally forfeit and pay for such offence, a sum not less than one and not more than fifty dollars, according to the nature and aggravation of such offence.

SECT. 4. *Be it further enacted*, that the said board of health shall have power to seize, take, and destroy, or to remove to any safe place without the limits of the town of Boston, or cause the same to be done, any unwholesome and putrid, or tainted meat, fish, bread, vegetable, or other articles of the provision kind, or liquor, which in their opinion, first consulting the physician of said board, or some other reputable physician of the town of Boston, shall not be fit for food and nourishment, and injurious to the health of those who might use the same; and the cost of such seizing, taking, destroying, or removing shall be paid for by the person, or persons, in whose possession the same unwholesome, putrid, or tainted, article shall or may be found.

May seize and destroy provisions.

SECT. 5. *Be it further enacted*, that the said board of health shall have power, from time to time, to make and establish all such rules, orders and regulations relating to clothing or any article capable of containing or conveying any infectious disease, or creating any sickness, which may be brought into, or conveyed from the town of Boston, or into or from any vessel, or on or from any island in the harbor of Boston, as they shall think proper for public safety, or to prevent the spreading of any dangerous or contagious disease. And all such rules, orders and regulations, so as aforesaid by said board made and established, shall be obeyed by all persons from and after the same have been published in two of the newspapers printed in the town of Boston, and shall continue to be in full force, until altered or repealed by the board who made and established the same, or some other succeeding board; and every person who shall disobey or violate any of such rules, orders, and regulations, shall forfeit and pay a sum not less than one dollar and not more than one hundred dollars, according to the nature and aggravation of such offence.

May make rules concerning infected clothing, etc.

Fines.

SECT. 6. *Be it further enacted*, that the said board of health shall have power to establish and regulate the quarantine to be performed by all vessels arriving within the harbor of the town of Boston, and for that purpose shall have power, from time to time, to establish, make, and ordain all such orders, rules, and regulations relating to said quarantine as said board shall think necessary for the safety of the public and the security of the health of the inhabitants of the said town of Boston; which said rules, orders, and regulations, so as aforesaid established, made, and ordained, shall be obeyed by all persons, and shall continue to be in force from and after the same shall have been published in two newspapers printed in the town of Boston, until the same are altered or repealed by the said board establishing, making and ordaining the same, or by some succeeding board of health. And said rules, orders and regulations may extend as well to all persons arriving in such vessels, and to their property and effects aboard such vessels, and to all such persons as may visit or go on board such vessels, after their arrival in said harbor of Boston, and to the cargo of all such vessels, as to the vessels themselves, — as also to every matter and thing relating to or connected with such

Quarantine.

P.S. 80, §§ 62-69.

Fines.

vessel, or the cargo of the same, or to any person or persons going on board or returning from the same; and every person who shall knowingly or wilfully violate or disobey any of such rules, orders, and regulations, so as aforesaid made, established, or ordained by said board of health, shall severally forfeit and pay a sum not less than five dollars, and not exceeding five hundred dollars, according to the nature and aggravation of such offence. And the board of health shall have power at all times, to cause any vessel, arriving in the harbor of Boston, which is foul and infected, or whose cargo is foul and affected with any malignant or contagious disease, to be removed and placed on quarantine ground, and the same to be thoroughly cleansed and purified at the expense and charge of the owners, consignees, or possessors of the same; and also all persons arriving in or going on board such infected vessel, or handling such infected cargo, to be removed to hospital or Rainsford island, under the care of said board, and to the hospital on the same, there to remain under the orders and regulations of said board. All expenses incurred on account of any person under the quarantine rules, orders and regulations of said board of health, shall be paid by such persons.

Officers appointed for Hospital island.

R.O. c. 22, § 16.

SECT. 7. [*Be it further enacted*, that said board of health shall have power, and it shall be their duty, to elect and appoint a principal physician to said board, who shall reside in Boston, and an assistant physician, who shall, during the time of quarantine, reside on Hospital island, also an island-keeper, to reside on said Hospital island, boatmen and such other officers and servants as will be necessary to carry into effect the rules, orders, and regulations of said board of health, as it respects the quarantine; and shall prescribe to them their duty, and establish their salary and fees, and displace or remove them at pleasure, and elect and appoint others in their places: also said board shall, from time to time, establish and regulate the fees or expenses attending the said quarantine regulations, shall have the care of said Rainsford or Hospital island, and of the hospital on the same, and of all property on said island and belonging to or connected with the hospital on the same; and shall, annually, in the month of January in each year, file in the secretary's office of this commonwealth, an exact and true account of the state of the property in and connected with the hospital establishment on said island, and of the property belonging to the commonwealth on said island, and of all money expended thereon.]

Scavengers and funeral porters.

SECT. 8. *Be it further enacted*, that said board of health shall have power to elect and appoint scavengers, superintendents of burying grounds, funeral porters or undertakers, and such other officers and servants as shall be necessary to carry into effect all the powers and duties given in this act to, or required of, the said board of health, and to fix and establish their fees of office or compensation; and all officers, elected or appointed by said board, shall be removable from their said offices at the pleasure of said board, and others substituted, elected, or appointed in their place. And a majority of said board shall be competent to transact any business which the whole board, were they all present, might or could transact.

SECT. 9. *Be it further enacted*, that all the powers and duties which are given to, or required of, the selectmen of the town of Boston, by a law of this commonwealth passed the twenty-second day of June, in the year of our Lord one thousand seven hundred and ninety-seven, entitled "an act to prevent the spreading of contagious sickness," and by the several acts in addition thereto, shall be, and they hereby are, transferred to and made the duty of the board of health of the town of Boston, anything in said laws to the contrary notwithstanding. [And, for all expenses which may arise in

Expenses.

the execution of their duty, the said board of health shall be authorized to draw upon the town treasurer of the town of Boston; and the accounts of said board, including all receipts and expenditures of money, shall be examined by the committee of accounts annually chosen by said town of Boston for that purpose, who shall report a state of them to the said town accordingly, and the same shall be paid by the treasurer of said town of Boston. And, on the death or resignation of any member of said board of health, the said board may cause such vacancy to be filled by a new election from the ward from which said member was elected, by directing the clerk of such ward to call a meeting of the inhabitants of such ward, qualified to elect a member of the board of health, to meet at such time and place as shall be notified to him by said board; at which meeting such vacancy shall be filled, and such proceedings be had as are directed in the first section of this act, as to the choice and return and notification of the person elected as a member of said board as aforesaid.]

Vacancies filled up.

SECT. 10. *Be it further enacted*, that whenever any prisoner confined in the gaol in Boston, or within the limits of said prison, shall be attacked with any contagious, malignant, disorder, which in the opinion of said board of health, first having consulted with the physician of said board, or some other respectable physician of the town of Boston, endangers the safety and health of the other prisoners in said gaol, or the inhabitants of said town, and that the suffering such prisoners, so attacked as aforesaid, longer to remain in said gaol, or within the limits of said prison, is not consistent with the public safety, or the health of the inhabitants of said town, or the prisoners in said gaol; in every such case, the said board of health shall make application in writing to any two justices of the peace, *quorum unus*, therein stating the facts relative to such case; and the said justices, to whom such application shall be made, shall examine into such case, and, if satisfied that the facts stated are true, shall issue their warrant to said board of health, authorizing and directing them to remove said prisoner, so attacked with such contagious and malignant disorder, to the hospital on Rainsford island, or to some other place of safety, there to remain under the directions of said board, until such prisoner either recovers or dies; and, in case of recovery, then to be returned by said board to the place from which he was taken; and such warrant, so executed by said board, or any member thereof, shall be by them returned, with their doings thereon, into the clerk's office of the court, from which the process for committing such prisoner to gaol shall have issued; and the place to which such prisoner shall be removed by virtue of such order, shall be considered as the gaol of the county of Suffolk; and every prisoner, removed as aforesaid, for the causes aforesaid, shall not thereby be considered as having committed any escape, so as to prejudice either himself, his bondsmen, or the persons who had the custody of him in his confinement aforesaid.

May remove sick prisoners.

SECT. 11. *Be it further enacted*, that the said board of health of the town of Boston are hereby authorized and empowered, from time to time, to make and establish rules, orders, and regulations, for the interment of the dead in said town, to establish the police of the burying grounds, appoint and locate the places where the dead may be buried in said town, and cause the places for the deposit of the dead in said town, and the burying grounds, to be repaired and properly enclosed. Also to make regulations for funerals and funeral processions, and appoint all necessary officers and persons to carry the same into effect, and to appoint to them their duties and fees; and shall also have the power to establish such penalties for the violation of any such rules, orders, and regulations, as they may think proper:

Burying grounds.

5 Cush. 408.
13 Allen 546.

Funerals.

Proviso for penalties. *provided*, no one penalty for any one violation shall exceed the sum of fifty dollars. And all such rules, orders, or regulations, so, as aforesaid, made and established by said board, shall be obeyed by every person, from and after the same have been published in two of the newspapers printed in Boston, and shall continue in full force, until the same are altered or repealed by the said board who made and established them, or by some succeeding board.

Permits. SECT. 12. *Be it further enacted*, that the said board of health shall have power to grant permits for the removal of any nuisance, infected article, or sick person, within the town of Boston, when they think it safe and proper so to do; and said board, whenever they think justice requires it, may stop, discontinue, discharge or compromise any suit, complaint, or information, originating under this act.

May prosecute. And all fines, forfeitures, penalties, sums to be paid or recovered, arising under any of the provisions of this act, shall be prosecuted for, by, and in the name of "the board of health of the town of Boston," by complaint or information by said board, to be made in writing to some justice of the peace within and for the county of Suffolk; which said justice, upon said complaint or information being made to him as aforesaid, shall receive the same, and thereupon issue his warrant, therein reciting the said complaint or information, directed to the sheriff of the county of Suffolk, or either of his deputies, or any constable of the town of Boston, commanding them, or either of them, to summon the party informed against or complained of, to appear before him at a time and place to be named in said warrant, to show cause, if any they have, why they should not pay the sum demanded of them in such complaint or information; which said warrant shall, by the officer who receives the same, be served on the party informed or complained against as aforesaid, at least seven days before the day in said warrant stated as the day of trial, by giving such party in hand a copy of such warrant, reading the same to him, or leaving a copy thereof at the last and usual place of abode of such party; and if such party shall not appear at the time and place appointed, or, appearing, shall not show sufficient cause as aforesaid, the said justice shall proceed to render judgment in every such case, that the said board of health shall recover such sum in damages, or as fine, as the case may be, as according to the provisions of this act, they ought by law to recover, with costs, and shall proceed to issue his execution therefor, in the same manner as executions issue from justices of the peace in civil cases triable before them; and such executions shall be served and made returnable in the same manner as executions in civil actions are by law served and made returnable, which issue on judgments rendered in the supreme judicial court of this commonwealth: *provided, however*, that, in all such prosecutions as aforesaid, if the said board of health shall discontinue such prosecution, or become non-suit, or the same, on the merits, should be decided by such justice trying such prosecution, against them, in every such case, the said party informed against and complained of, shall recover his legal costs against said board, which costs shall be paid by the treasurer of the town of Boston. And in every prosecution under this act, before any justice of the peace as aforesaid, the party complained against in such prosecution, being dissatisfied with the judgment in the same, given by such justice, may appeal therefrom to the Boston court of common pleas, next to be holden at Boston within and for the county of Suffolk, after such judgment is so as aforesaid given or rendered by said justice: *provided* such appeal be entered within twenty-four hours after such judgment is given as aforesaid; and the same proceedings in all respects relating to such appeal shall be had as are

Forms of process.

Proviso.

Appeals.

Proviso.

by law required on appeals from judgments rendered in civil causes by justices of the peace in this commonwealth; and on the entry of such appeal in the said court, the said court shall have cognizance and jurisdiction of the same, and shall proceed to hear and determine the same in the same manner, and award execution in the same way and manner, as they have cognizance and jurisdiction, [to] proceed to hear, and determine, and award execution in civil causes, on appeals to them from judgments given by justices of the peace in this commonwealth. And in all cases of such appeals or prosecutions under this act, the party prevailing in the said court shall recover his costs, to be paid Costs. in the manner prescribed in this section of this act; *provided, however*, that no appeal shall be allowed or granted to said court in any prosecution under the provisions of this act, where the amount of the judgment rendered and had before and by any justice of the peace, shall not amount to more than five dollars, exclusive of costs. And all fines and forfeitures recovered by said board of health, under the provisions of this act, shall inure to the use of the inhabitants of the town of Boston, and be accounted for by said board of health, to and with the town treasurer of said town of Boston: *and provided, also*, Proviso. that, in consequence of said appropriation of said fines and forfeitures, or the appropriation of any other moneys by virtue of this act, no inhabitant of the said town of Boston shall be disqualified as a justice of the peace, a witness, or juror, in any prosecution under this act, nor shall the said board of health, or any member of the same, or any officer of the same, be rendered thereby incompetent witnesses in any prosecution under this act; and the members of said board of health, while they continue in such office, shall be exempted from all Exemptions. militia duty, and every other duty and service, which, by law, the selectmen of towns in this commonwealth are exempted from; and all laws heretofore made relating to a board of health in the town of Boston, so far as they are inconsistent with, or contrary to, the provisions of this act, shall be, and the same are hereby, repealed: Acts repealed. *provided, however*, that the election of the present board of health for the said town of Boston, and all their doings under the said laws, are hereby confirmed, and they shall have and exercise all the powers and duties required or permitted by this present act: *and provided*, Proviso. *also*, that all prosecutions now pending shall be proceeded in, in the same way and manner, as though this act had never been passed. And, in all prosecutions under this act, the persons prosecuted may May plead the general issue. plead the general issue, and give any special matter in evidence under the same; and the complaint, information, pleadings, or proceedings in any prosecutions under this act, may, by leave of court before whom the same is or may be pending, be amended in any state of such prosecution, without the payment of costs by either party.

June 20, 1816.

1816. — CHAPTER 90.

AN ACT IN FURTHER ADDITION TO AN ACT ENTITLED "AN ACT TO REGULATE THE PAVING OF STREETS IN THE TOWN OF BOSTON, AND FOR REMOVING OBSTRUCTIONS IN THE SAME."

Be it enacted, etc.:

SECTION 1. That the selectmen of the town of Boston, for the time being, whenever in their opinion the safety or convenience of the inhabitants of said town shall require it, shall be, and they hereby are, empowered to discontinue any street, lane, or alley of the said town, or to make any alteration in the same, in part or in whole; Powers. 1870, 837.

1804, 73.

Orders, votes,
etc., valid.

Records.

Prohibitions.

Penalties.

Proviso.

reserving, however, in all cases, to individuals who may sustain damage thereby, recompense for the same, to be ascertained and allowed in the same manner as is provided in the act entitled “an act in addition to an act entitled ‘an act to regulate the paving of streets in the town of Boston, and for removing obstructions in the same.’”

SECT. 2. *Be it further enacted*, that all orders, votes and determinations of the said selectmen of the town of Boston, heretofore had and passed for the discontinuance of any street, lane, or alley of the said town, or respecting any alteration in the same, in whole or in part, shall be held and considered as good and valid to all intents and purposes, as if the said act, to which this is in addition, had explicitly vested said authority in the said selectmen; reserving always to individuals recompense for damages sustained thereby, as is provided in the said act.

SECT. 3. *Be it further enacted*, that the selectmen of the town of Boston shall keep a record of all the streets, lanes, and alleys of the said town, and of all the votes and proceedings relative to the same; and that copies thereof, certified by the town clerk, shall be valid to all intents and purposes.

SECT. 4. *Be it further enacted*, that from and after the passing of this act, no person shall raise up from any street, wharf, or place of public resort within the town of Boston, for the purpose of storing the same, any cask, bale of goods, or other articles of merchandise, into the second or any higher story of any house, store, or other building upon or adjoining the same, and on the outside of such buildings, and that no person shall deliver from the second or any higher story of any house, store, or other building, on the outside of the same, which shall adjoin upon any street, wharf, or place of public resort, within the said town of Boston, any cask, bale of goods, or other article of merchandise, except at such times and places, and under such restrictions and limitations, as the selectmen, for the time being, shall by writing authorize and direct. And every person who shall offend in manner aforesaid, shall forfeit and pay to the commonwealth, for each and every such offence, a sum not exceeding one hundred dollars, nor less than ten dollars, to be recovered by indictment in the municipal court for the town of Boston, with costs of prosecution: *provided*, that this shall not be construed to extend to the raising any materials or other articles which may be necessary in erecting, repairing, or taking down any building within the said town of Boston, or for the convenience thereof, or for removing any merchandise or other article in case of danger by fire, or other inevitable casualty.

Dec. 13, 1816.

[1799, 31; 1804, 73; 1809, 28; 1831, 17; 1833, 128; 1854, 448; 1870, 337; 1872, 322; 1877, 228; 1878, 75; P.S. 49, § 84.]

1817. — CHAPTER 50.

AN ACT IN FURTHER ADDITION TO AN ACT, ENTITLED “AN ACT FOR THE DUE REGULATION OF WEIGHTS AND MEASURES, AND FOR THE MORE EASY RECOVERY OF FINES AND PENALTIES WITHIN THE TOWN OF BOSTON IN THE COUNTY OF SUFFOLK.”¹

Be it enacted, etc.:

Sealer of weights
and measures to
be provided with
office.

SECTION 1. That it shall be the duty of the sealer of weights and measures within and for the town of Boston, to be provided with a

¹ St. 1799, c. 60, here referred to, was repealed by the Revised Statutes.

house or office, and to which all persons using scale beams, steelyards, weights, or measures, within the town of Boston, in trade, for the purpose of buying or selling any article, shall be required, after notice thereof shall have been given in two or more of the newspapers published within the said town, to send annually their scale beams, steelyards, weights, and measures, for the purpose of having the same tried, proved, and sealed, as is provided in and by the act aforesaid, to which this is in addition; and the said sealer shall be entitled to demand and receive therefor such fees as are allowed in and by the said act.

Notice to be given.
P.S. 66, §§ 12, 13.
106 Mass. 200.
109 Mass. 220.
111 Mass. 320.

SECT. 2. *Be it further enacted*, that the said sealer is hereby authorized and required to go to the houses, stores and shops of all such merchants, innholders, traders, retailers, and of all other persons living or residing within the said town of Boston, using beams, steelyards, weights, or measures, for the purpose of buying and selling, as shall neglect to bring or send the same to the house or office of the sealer aforesaid; and there, at the said houses, stores, and shops, and having entered the same with the assent of the occupant thereof, to try, prove, and seal the same, or to send the same to his said house or office, to be tried, proved, and sealed, and shall be entitled to demand and receive therefor double the fees he would be entitled to demand and receive for the same, if such beams, steelyards, weights, and measures had been sent to his said house or office, with all expenses attending the removal and transportation of the same; and if any such person or persons shall refuse to have his, her, or their, beams, steelyards, weights, or measures, so tried, proved, and sealed, the same not having been tried, proved, and sealed, within one year preceding such refusal, he, she, or they, shall forfeit and pay ten dollars for each offence; the one moiety to the use of the said town of Boston, and the other moiety of the same to the sealer. And if any such person, or persons, shall use any beam, steelyard, weight, or measure, which shall not conform to the public standard, the same not having been tried, proved, and sealed within one year preceding such use of the same, he, she or they, shall forfeit and pay ten dollars for each offence, the one moiety to the use of said town of Boston, and the other moiety of the same to the informer. And if any such person or persons shall alter any beam, steelyard, weight, or measure, after the same shall have been tried, proved, and sealed, so that the same shall by such alteration be made not to conform to the public standard, and shall fraudulently make use of the same, he, she, or they, shall forfeit and pay fifty dollars for each offence, the one moiety to the use of the said town of Boston, and the other moiety of the same to the informer.

Sealer authorized to examine weights and measures.
P.S. 66, § 14.

Double fees.

Forfeitures.

SECT. 3. *Be it further enacted*, that all fines, forfeitures, and penalties, accruing within the said town of Boston, under this act, or for the breach of any by-law of the said town, which is now in force, or which may hereafter be duly enacted and made, may be recovered by indictment, information, or complaint, in the name of the commonwealth, in any court competent to try the same; and all fines so recovered and paid shall be appropriated to the uses for which the same are now by law ordered to be applied; reserving, however, in all cases to the party complained of and prosecuted, the right of appeal to the next municipal court in the town of Boston, from the judgment and sentence of any justice of the peace, in which case the judgment of the said municipal court shall be final; and to the next supreme judicial court, to be holden within the county of Suffolk, and for the counties of Suffolk and Nantucket, from the judgment of the municipal court where the indictment or information originated in the same, such party recognizing with sufficient surety or sureties,

Forfeitures and penalties to be recovered by law.
P.S. 27, § 19;
28, § 2.

to the satisfaction of the court, to enter and prosecute his, her, or their, said appeal, and to abide the final judgment thereon.

Shall not appeal
from judgment.

P.S. 27, § 19;
28, § 2.

SECT. 4. *Be it further enacted*, that when any person, who upon conviction before a justice of the peace, for any offence mentioned in this act, or for the breach of any by-law of the town of Boston, shall be sentenced to pay a fine, and shall not appeal from said judgment, or if upon claiming an appeal, shall fail to recognize as aforesaid, and upon not paying the fines and costs so assessed upon him, shall be committed to prison; there to remain, until he or she shall pay such fines and cost, or be otherwise discharged according to law; such persons shall not be holden in prison for a longer term than ten days; and at the expiration of that term, the keeper of the said gaol is hereby authorized to release such person from confinement.

Superseded by
P. B. 102.

SECT. 5. [*Be it further enacted*, that all fines and penalties, which shall be hereafter recovered for any offences, which shall hereafter be committed against the act of this commonwealth, which was made and passed on the fourteenth day of December, in the year of our Lord one thousand eight hundred and sixteen, entitled, "An act in addition to an act, entitled, 'an act for the due regulation of licensed houses,'" shall be appropriated, the one moiety to the town of Boston, and the other moiety of the same to the informer, any thing to the contrary in that act notwithstanding.]

SECT. 6. *Be it further enacted*, that the seventh section of the act aforesaid, to which this is in addition, be, and the same is, hereby repealed, so far as respects the said town of Boston.

June 17, 1817.

1817. — CHAPTER 171.

AN ACT TO SECURE THE TOWN OF BOSTON FROM DAMAGE BY FIRE.¹

No cocoa to be
roasted without
license.

SECTION 6. *Be it further enacted*, that if any person or persons shall, within the said town of Boston, roast, or cause to be roasted, any cocoa, for the purpose of manufacturing the same into chocolate, in any building whatever, excepting such as may or shall be licensed for that purpose, by the major part of the firewards of the town aforesaid, he, she, or they, shall forfeit and pay, for every such offence, a sum not exceeding five hundred dollars, nor less than two hundred dollars.

Tar kettles to be
secured.

SECT. 9. *Be it further enacted*, that every tar kettle, which shall be made use of in said town, for the purpose of boiling tar, for the use of any rope walk, and every kettle, boiler, or copper, for the use of any caulker, graver, ship carpenter, tallow chandler, soap boiler, painter, or other like artificer, shall be so fixed as to prevent all communication whatsoever between the contents of such kettle, boiler, or copper, and the fire, and that the fire place under every such tar or other kettle, boiler, or copper, shall be constructed with an arch built over the same and secured by an iron door, in such manner as to enclose the fire therein; and every person who shall erect any tar kettle or other kettle, boiler, or copper, or use the same for any or either of the purposes aforesaid, contrary to the provisions of this act, shall, for every such offence, forfeit and pay a sum not exceeding three hundred dollars, nor less than fifty dollars, according to the degree and aggravation of the same.

Penalty for car-
rying fire in the
streets.
12 Met. 231.

SECT. 10. *Be it further enacted*, that every person who shall carry

¹ The first, second, third, fourth, fifth, seventh, eighth, and fifteenth sections of this act were repealed by St. 1850, c. 280, § 2, since repealed by St. 1871, c. 280, § 63.

any fire through the streets, lanes, or on any wharves in said town, except in some covered vessel, or who shall kindle a fire in any of the places aforesaid, without the permission therefor in writing, of one or more of the firewards of said town [or shall smoke, or have in his or her possession, any lighted pipe or cigar, in any street, lane, or passage way, or on any wharf in said town]¹, shall forfeit and pay, for each and every offence, the sum of two dollars, to be recovered of the person so offending, or of his parent, guardian, master, or mistress. 12 Met. 231.

SECT. 11. *Be it further enacted*, that if any person shall have in his or her possession, in any rope walk, or in any barn or stable, within said town, any fire, lighted pipe or cigar, lighted candle or lamp, except such candle or lamp is kept in a secure lantern, the person so offending shall forfeit and pay for each offence, a sum not exceeding one hundred dollars, nor less than twenty dollars. Penalty for exposing fire in barns, etc.

SECT. 12. *Be it further enacted*, that all and any of the penalties which are given in and by this act, or in and by a certain act, made and passed the fifteenth day of June, in the year of our Lord one thousand eight hundred and sixteen, entitled "An act regulating the storage, safe keeping, and transportation, of gunpowder in the town of Boston," may be recovered by indictment, information, or complaint, in any court proper to try the same; and in such indictment, information, or complaint, it shall not be necessary to set forth any more of said acts, than so much thereof as relates to and is necessary, truly and substantially to describe the offence alleged to have been committed. And it shall be the duty of each and every fireward in the town of Boston, and they and each of them are hereby required to inquire after all offences which shall come to their knowledge, and which shall be committed against the true intent and meaning of this act, and shall cause the same to be duly prosecuted. Recovery of fines.

SECT. 13. *Be it further enacted*, that it shall be lawful for any one or more of the firewards of said town, to require and compel the assistance of all or any of the inhabitants of said town, and any other persons, who shall be present as spectators of any fire; and in any suit or prosecution therefor, it shall be lawful for them to plead the general issue, and give this act in evidence; and if any person shall disobey the lawful and reasonable command of any fireward or firewards, to aid in extinguishing such fire, or in rescuing property from destruction thereby, such person, so offending, shall be liable to a fine not exceeding twenty dollars, to be recovered in manner aforesaid. Duties and powers of firewards.

SECT. 14. *Be it further enacted*, that all acts heretofore passed to secure the town of Boston from damage by fire, be, and the same are, hereby repealed, excepting that such parts thereof as may be necessary to recover all fines and penalties, incurred upon the acts aforesaid, shall still remain in full force for that purpose. Repeal of former acts.

February 23, 1818.

1818. — CHAPTER 4.

AN ACT FOR THE PRESERVATION OF BIRD ISLAND IN BOSTON HARBOR.

Be it enacted, etc. :

That from and after the passing of this act, no earth or stones shall be taken from the island, called Bird island, in Boston harbor, in the county of Suffolk, without license first had and obtained of the selectmen of the said town of Boston for that purpose, in writing, by the per-

¹ The words within brackets were stricken out by St. 1880, c. 38.

son taking the same, specifying the quantity allowed to be removed, and the object of removing it. And every person, who, without permission obtained as aforesaid, shall remove any earth or stones from the said island in any boat, or in any ship or vessel whatsoever, shall forfeit and pay for each offence the sum of twenty dollars, to the use of the said town, to be recovered by the selectmen of the said town by an action of debt, in any court proper to try the same.

June 12, 1818.

1822. — CHAPTER 41.

AN ACT TO INCORPORATE THE BOSTON GAS-LIGHT COMPANY.

Be it enacted, etc.:

Persons incor-
porated.

SECTION 1. That William Prescott, Alexander Parris, Bryant P. Tilden, Nathan Hale, John C. Gray, and all such persons as are, or shall be, associated with them, and their successors, be, and they are hereby, incorporated, for the purpose of furnishing gas-light in the city of Boston, by the name of the Boston Gas-light Company; and by that name may sue and prosecute, and be sued or prosecuted to final judgment and execution, and do and suffer all other matters and things which bodies politic may, and ought to, do or suffer; and may have and use a common seal, and the same break and alter at their pleasure; and by their said corporate name may purchase, take, and hold, real and personal estate, not exceeding in the whole value, seventy-five thousand dollars.

Powers and
privileges.

Real and per-
sonal estate.

Directors,
shares, and by-
laws.

SECT. 2. *Be it further enacted*, that the said corporation may elect so many directors and other officers, and divide their capital stock into such number of shares, and establish and put in execution such by-laws and regulations as the members thereof may judge necessary: *provided*, the same are not repugnant to the laws and constitution of this commonwealth.

Right to sink
pipes.

SECT. 3.¹ *Be it further enacted*, that the said corporation, with the consent of the mayor and aldermen of said city of Boston, shall have power and authority to open the ground in any part of the streets, lanes, and highways, in said city, for the purpose of sinking and repairing such pipes and conductors as [it] may be necessary to sink for the purpose aforesaid. And that the said corporation, after opening the ground in the said streets, lanes, or highways, shall be held to put the same again into repair, under the penalty of being prosecuted for a nuisance: *provided*, that the said mayor and aldermen, for the time being, shall, at all times, have the power to regulate, restrict, and control the acts and doings of said corporation which may, in any manner, affect the health, safety, or convenience of the inhabitants of said city.

Mayor and al-
dermen may re-
strict the cor-
poration.

Assessments.

SECT. 4. *Be it further enacted*, that said corporation shall have full power, from time to time, to make and assess such assessments and taxes as they shall deem necessary, on the shares in said corporation; and, on neglect or refusal to pay the same, to sell such shares at vendue, for the payment thereof, after advertising the same in two of the newspapers published in Boston, for the space of twenty days previous to the sale, paying the overplus, if any there be, after the payment of such assessments and taxes, and of the charges of sale, to the owner of the share or shares so sold.

¹ Similar privileges were granted to the Roxbury Gas-light Company by St. 1852, c. 198; St. 1857, c. 137; the East Boston Gas-light Company, by St. 1853, c. 13; the South Boston Gas-light Company, by St. 1852, c. 103, with authority to lay pipes in Dorchester, 1853, c. 320; the Charles-town Gas-light Company, by St. 1848, c. 98; the Dorchester Gas-light Company, by St. 1854, c. 9; the Brighton Gas-light Company, by St. 1853, c. 29; the Jamaica Plain Gas-light Company, by St. 1853, c. 63. These acts are not reproduced in this volume. See, also, P.S., c. 106, § 75 *et seq.*

SECT. 5. *Be it further enacted*, that the said William Prescott, or First meeting. Alexander Parris, be, and they are hereby, empowered to call the first meeting of the said corporation, by a notification in one of the newspapers of Boston aforesaid, fourteen days previous to such meeting; and the said corporation, at such meeting, shall agree upon the mode of calling future meetings.

January 22, 1823.

1822. — CHAPTER 56.

AN ACT CONCERNING THE HOUSE OF INDUSTRY IN THE CITY OF BOSTON.

Be it enacted, etc. :

[That the city council of the city of Boston shall choose annually, in the month of May, by ballot, nine discreet and suitable citizens to be directors of the house of industry in the said city.] Directors of the House of Industry. 1857, 35, § 1.

SECT. 2. *Be it further enacted*, that the said directors shall have and exercise the like authority and power, in using, regulating, and governing, said house of industry, as are had and exercised by overseers of the poor within this commonwealth, and may send such persons to said house, and for such purposes, as overseers of the poor are by law authorized to do. Powers of directors. 1826, 111. 1857, 35, § 1.

SECT. 3. *Be it further enacted*, that the justices of the police court in the city of Boston, in the county of Suffolk, shall have and exercise the like authority and power, in ordering commitments to said house of industry, as are now vested in justices of the peace, as to commitments to houses of correction, according to the provisions of an act entitled "an act for suppressing and punishing of rogues, vagabonds, common beggars, and other idle, disorderly, and lewd persons," passed on the twenty-sixth day of March, one thousand seven hundred and eighty-eight. Justices of the police court may commit vagabonds, etc.

SECT. 4. *Be it further enacted*, that the said directors shall, in the month of April, in every year, make report, in writing, to the city council, of the persons who shall have been resident in said house of industry, during the next preceding twelve months, and of the manner in which such persons shall have been employed during their residence therein; and the said directors shall also render to the city council, in the month of April, annually, an account of all moneys received and paid on account of the said house. Annual report of directors.

SECT. 5. *Be it further enacted*, that all rules and orders for the governing and managing said house of industry shall, within two months after the same shall have been made, be submitted to the city council; and such rules and orders shall be in force until repealed or altered by said directors, or until disapproved of by vote of the said city council. Rules and orders.

SECT. 6. *Be it further enacted*, that no rules or orders shall be established for the governing and managing said house of industry by the directors thereof, unless at a meeting at which five or more of the said directors are present. Same subject.

SECT. 7. *Be it further enacted*, that the city council of the city of Boston be, and the same hereby is, authorized and empowered, as soon after the passing of this act as they may see fit, to choose nine directors of said house of industry, to continue in office until the election of directors which may be made, pursuant to this act, in the month of May in the year one thousand eight hundred and twenty-four, anything in this act to the contrary notwithstanding. City council to choose first directors.

February 3, 1823.

[1824, 28; 1825, 182; 1826, 111; 1833, 126; 1857, 35.]

1822. — CHAPTER 85.

AN ACT PROVIDING FOR THE ASSESSMENT OF TAXES IN THE COUNTY OF SUFFOLK.

Be it enacted, etc. :

City council may lay taxes.

P.S. 11, § 48.

That the city council of the city of Boston shall have power, from time to time, to lay and assess taxes in the county of Suffolk, for all purposes for which county taxes may be levied and assessed, so long as the town of Chelsea shall continue not to be liable to taxation for any county purposes.

February 10, 1823.

1823. — CHAPTER 148.

AN ACT AUTHORIZING THE EXTENSION OF FANEUIL-HALL MARKET IN BOSTON.

Be it enacted, etc. :

The city council of Boston may decide upon the extension of Faneuil-hall market.
R.O., c. 41.

Proviso.

SECTION 1. That whenever the city council of the city of Boston shall, declare that the public exigencies require that the limits of Faneuil-hall market should be extended in any direction between Ann street on the north, a line drawn from the east end of Faneuil hall, on the west, the south side of Faneuil hall, and the lane leading to Green's wharf, on the south, and the harbor on the east, it shall be lawful for the mayor and aldermen of said city, within one year from the first day of April next, to lay out and widen Faneuil-hall market, in such direction, within the limits aforesaid, not exceeding one hundred and eighty feet wide, as may be prescribed by the city council: *provided*, that the land taken, by virtue of this act, shall never be used for any other purposes than those herein described, without the previous consent of the legislature being obtained therefor.¹

Duty of the mayor and aldermen to refer questions of damages.

Manner of appointing referees.

SECT. 2. *Be it further enacted*, that it shall be the duty of said mayor and aldermen, previously to removing any building or doing any act affecting said property, to notify a meeting of the proprietors, or legal representatives, of the estates which may be included within the said limits, and directed by the city council to be appropriated for the purposes aforesaid, and invite their concurrence in a submission and reference of all questions relating to the damages which they may sustain by such appropriation, to five disinterested freeholders and inhabitants of this commonwealth, two to be chosen by said mayor and aldermen, and two by the proprietors; which four persons shall elect one more; and the five thus chosen shall forthwith, after the said market shall have been extended in manner aforesaid, give notice to both parties to appear, if they see fit, for a hearing before them, and shall proceed to the duties of their appointment. And they shall first inquire whether any damage has been sustained from the proceeding aforesaid, and, if any, they shall estimate the same, and their award shall be binding and conclusive on the inhabitants of said city of Boston, and on said proprietors. And in case any of said proprietors shall not agree to said submission, the same reference shall be had, in manner and form aforesaid, with those who do agree to the same.

¹ The city council, by resolves passed March 11, 1824, declared that the public exigencies required such extension, and the mayor and aldermen, July 22, 1824, extended the market "in an easterly direction from said Faneuil hall to the harbor, between two lines parallel to the walls of Faneuil hall aforesaid, and running eastwardly towards the harbor, of which the north line shall be fourteen feet distant from the north side of said hall, and the south line shall be one hundred and eighty feet to the south of said north line." — *City Records*, Vol. II., pp. 70, 294.

SECT. 3. *Be it further enacted*, that any of said proprietors, or legal representatives, of any estates taken for the purposes aforesaid who may not agree to said reference, may, within three years from the time that the land or estates shall have been so taken, file his petition for indemnity in the supreme judicial court within the county of Suffolk, before or during any term thereof, and after fourteen days' notice, which shall be given by leaving a copy of said petition with the mayor of the city of Boston, the court may proceed to the hearing of the said petitioners upon the appearance or default of the adverse party; and the said court are hereby authorized and empowered to appoint five commissioners, who shall be disinterested freeholders and inhabitants of this commonwealth, whose duty it shall be to estimate and determine the damages which the plaintiff may have sustained, in the manner and upon the principles set forth and expressed in the second section of this act, and shall make return of their award into said court as soon as may be. and upon the acceptance thereof, judgment shall be rendered thereon for the party prevailing, with costs: *provided, however*, that if either party shall be dissatisfied with said award, it shall be lawful for such party to apply to the supreme judicial court, at any term thereof, within and for the county of Suffolk, next after such award, for a trial by jury, at the bar of said court, and thereupon the court shall direct the sheriff of the county of Suffolk to name and return a special jury, who shall be disinterested freeholders, to hear and determine in said court, all questions relating to said damages, and to assess the amount thereof; and the verdict of such jury [shall] be final and conclusive upon the parties; and if the party applying for a jury shall not obtain, in case it shall be the original plaintiff, or applicant, an increase of damages, or in case it be the original defendant, a decrease of damages awarded by the commissioners, such party shall pay reasonable costs of such trial, otherwise shall recover reasonable costs, and upon any judgment rendered on the verdict of such jury the court may issue execution accordingly.

Proprietors may file petition for indemnity in supreme judicial court.

Court may appoint commissioners.

Party dissatisfied may apply for trial by jury.

Costs.

SECT. 4. *Be it further enacted*, that in case any property or estates shall be taken under the provisions of this act, which may be held in trust, or be the property of married women, or belong to minors, or persons *non compos*, or the unsettled estates of persons deceased, the trustees of such estates held in trust, such married women with their husbands, and the guardians of such minors or persons *non compos*, and the administrators and executors of such estates, are hereby authorized to enter into such references, or take such other measures as proprietors are by this act authorized to do: *provided, however*, that the damages which may be awarded by the commissioners or recovered by verdict, belonging to estates held in trust, or the property of married women, shall be paid to the trustees of such estates so held in trust, and the husbands of such married women, if such married women shall thereto consent in writing, and, if not, then to [a] trustee or trustees to be appointed by the supreme judicial court, at any term thereof, on application of any such married woman, in trust, to hold and invest the same, to pay over the income thereof to the husband of such married woman, so long as he would have been entitled to the use and possession of said estate, and then to pay over the principal to such person or persons as would have been entitled to have said estate if the same had not been taken by the provisions of this act, with such securities, limitations, and restrictions, as said court shall on such application direct. And the damages awarded to unsettled estates of deceased persons, or minors, or persons *non compos*, shall be subject to the same disposition which

Trustees, administrators, etc., of estates, authorized to act.

Proviso.

Disposition of damages.

is now by law provided for the surplus arising from the sales of real estate by administrators and guardians, under the order of court.

February 21, 1824.

[1859, 211; 1860, 152.]

1824. — CHAPTER 16.

AN ACT TO REGULATE THE SIDEWALKS IN THE TOWN OF CHARLESTOWN.

Be it enacted, etc.:

Regulations.

SECTION 1. That in all streets which shall hereafter be paved in the town of Charlestown, the sidewalks shall be made according to the following regulations, viz.: the foot-path or sidewalk on each side of the street shall be of a breadth not exceeding one-sixth part of the whole width of the street, and shall be paved with brick or flat stone, and shall be secured with good and sufficient hammered edgestone on the outside of the same.

1864, 160.

[SECT. 2.¹ *Be it further enacted*, that whenever the town shall direct the paving of any public street as aforesaid, each and every owner or owners of a lot or lots of land adjoining the same, shall without delay, at his or her expense, cause the sidewalk in front of his or her land, to be paved with brick or flat stone, and supported by hammered edgestone, and kept in repair, the same to be done under the direction, and to the acceptance of the surveyors of the highways. And if the owner or owners of such lot or lots shall neglect or refuse to pave and support the sidewalk as aforesaid, for the space of twenty days after he or she, or the tenant of such lot or lots, or the attorney of such owner or owners, shall have been thereto required by any of the surveyors of highways, then it shall be lawful for said surveyors, and they are hereby enjoined and required to pave and support the same in manner aforesaid, or to repair the same, and shall recover the whole amount of the expense thereof, by action of the case, to be brought by the surveyors of highways, before any court, proper to try the same: *provided*, nevertheless, that whenever, in the opinion of the selectmen, any owner or owners of any lot on such street, shall be unable to comply with the foregoing requisitions, the said selectmen may direct the surveyors of highways to cause such sidewalk to be made at the expense of the town: *provided, also*, that when there are any vacant lots of land on any such street, the surveyors of highways may, at their discretion, allow the owner or owners thereof to cover the sidewalk with plank, and support the same with timber, which shall be removed, and the edgestone and brick or flat stone pavement be completed, whenever, in the judgment of said surveyors, it shall become necessary.]

Canopy, balcony, etc.
122 Mass. 173.
124 Mass. 434.
128 Mass. 330.
Width and how built.

SECT. 3. *Be it further enacted*, that no canopy, balcony, portico, or door-steps, hereafter erected in any street, lane, or alley, in the town of Charlestown, shall project into the street, lane, or alley, more than one-twelfth part of the width thereof, and in no case more than three feet, and all cellar-doors hereafter made or repaired, shall be built with upright cheeks, which shall not project from the line of the house, into the street, lane, or alley, more than nine inches, nor shall the platform of the same rise above the level of the sidewalk. And if any proprietor, owner, or owners, shall erect any canopy, balcony, portico, cellar-door, door-step, or other obstruction, contrary to the

In case of neglect or refusal.

¹This section was repealed by St. 1855, c. 11, § 2. See also St. 1861, c. 160, § 1.

provisions of this act, and shall refuse or neglect to remove or take down the same, within five days after having been directed and required thereto, by any of the surveyors of highways, such proprietors, owner, or owners, shall forfeit and pay the sum of two dollars for each and every day the same shall remain, after the expiration of the said five days. Forfeitt.

SECT. 4. *Be it further enacted*, that all forfeitures and fines which may be recovered in pursuance of this act, shall go, and be distributed, one moiety thereof to the poor of the town of Charlestown, and the other moiety to the surveyors of highways. Distribution of fines.

July 12, 1824.

[1864, 160.]

1824. — CHAPTER 28.

AN ACT CONCERNING THE REGULATION OF THE HOUSE OF CORRECTION IN THE CITY OF BOSTON, AND CONCERNING THE FORM OF ACTIONS COMMENCED UNDER THE BY-LAWS OF SAID CITY, AND PROVIDING FOR FILLING VACANCIES IN THE BOARD OF ALDERMEN.

Be it enacted, etc. :

SECTION 1. That the city of Boston shall be entitled to the same remedies in order to recover the expenses of supporting any poor person maintained in the house of industry of said city, that towns in this commonwealth are entitled to for the recovery of the expenses of persons for whom support or relief is provided by overseers of the poor, or under their direction. Remedy of Boston for supporting poor persons.

SECT. 2. *Be it further enacted*, that the house of correction within the city of Boston shall be the house of correction for the county of Suffolk, and that the city council of said city shall have power, from time to time, to appoint such a number of overseers of the house of correction in said city of Boston, not exceeding nine, as they shall deem expedient, who shall have, use, and exercise, all the powers and authority in regulating and governing said house of correction and the inhabitants thereof, subject to the control of the mayor and aldermen of the said city, that are granted to overseers of houses of correction in and by an act entitled "an act for suppressing and punishing rogues, vagabonds, common beggars, and other idle and lewd persons," passed on the twenty-sixth day of March in the year of our Lord one thousand seven hundred and eighty-eight, and the several acts additional thereto; and the said overseers, so appointed, or the major part thereof, shall, from time to time, make, ordain, and establish, such rules and orders, not repugnant to the constitution and laws of the commonwealth, for the governing and punishing of persons committed to the said house, as they shall find needful and proper, which, within one month after they shall have been made, shall be submitted to the said city council, and shall be in force until repealed by the said overseers, or until disapproved of by the said city council, and the power of discharging persons committed to the said house of correction by the justices of the police court of said city, or by any justice of the peace for the county of Suffolk, before the expiration of their term of commitment, upon the recommendation of the overseers of said house, shall be, and is hereby, vested in any one or more of the said justices of the police court of said city. Appointment of overseers of the house of correction. P.S. 220, § 23. 1867, 36, § 1.

SECT. 3. *Be it further enacted*, that the said city council shall have power, from time to time, to appoint a master of the said house of correction, who shall be under the direction and control of the said overseers, and shall be compensated in such manner as the said city council may appoint master of the house of correction. Overseers may make rules for the government of said house.

Persons may be discharged by justices of the police court.

P.S. 220, § 23.

cil shall direct. And the said city of Boston shall bear and defray all the expenses of the said house of correction, and shall be entitled to the same remedies to recover the charges of maintaining any person therein that the masters of the several houses of correction throughout the commonwealth, or that towns, or counties, are now entitled to by law.

1816, 44.

Prosecutions for fines.

SECT. 4. *Be it further enacted*, that all fines, penalties, and forfeitures, accruing under a statute of this commonwealth, passed the twentieth day of June, in the year of our Lord one thousand eight hundred and sixteen, entitled "an act to empower the town of Boston to choose a board of health, and to prescribe their power and duty," or accruing under any rules, regulations, by-laws, or ordinances which have been, or hereafter shall be, passed by the city council of the city of Boston, in relation to the health of the said city, or of the inhabitants thereof, shall be sued for, prosecuted, and recovered, by complaint or information before the justices of the justices' court for the county of Suffolk, in the name of the city of Boston, by any officer or person authorized to institute the same, and in the manner prescribed in the statute above mentioned, and such fines, penalties, and forfeitures, shall enure, and be recovered, for the use of the said city; and no person shall be disqualified from acting as a magistrate, juror, or witness, in any such suit or prosecution, by reason of any interest which he may have, as an inhabitant of the said city, in the sum or sums of money to be recovered thereby.

Form of complaints.

SECT. 5. *Be it further enacted*, that in all prosecutions by complaint before the police court for the city of Boston founded on the special acts of the legislature, the by-laws of the town of Boston, or the ordinances or by-laws of the city of Boston, it shall be sufficient to set forth in such complaint the offence fully and plainly, substantially and formally; and in such complaint it shall not be necessary to set forth such special act, by-law, ordinance, or any part thereof.

Vacancies in board of aldermen, how filled.
1854, 448, § 25.
1884, 250, § 3.

SECT. 6. [*Be it further enacted*, that in case of the death or resignation of any member of the board of aldermen, the citizens of Boston shall have power to fill such vacancy at any regular meeting that may be convened for that purpose.]

June 12, 1824.

[1857, 35; P.S. 220.]

1825. — CHAPTER 3.

AN ACT FOR THE REGULATION OF LAMPS IN THE CITY OF BOSTON.

Be it enacted, etc.:

Mayor and aldermen authorized to erect lamps.
1 Allen 30.
100 Mass. 255.
106 Mass. 276.
110 Mass. 520.

SECTION 1. That from and after the publication of this act it shall be lawful for the mayor and aldermen of the city of Boston, for the time being, to cause to be set up and affixed such and so many lamps in the streets and other places in the said city, for the purpose of lighting the same, as they may determine to be convenient and necessary; and the said mayor and aldermen are hereby empowered to make all necessary contracts, rules, orders, and regulations, respecting the said lamps, and the lighting and keeping the same in repair, and the regulation and preservation of the same, as they may deem most for the benefit of said city.

Fines and penalties for injuring lamps.
P.S. 203, § 76.

SECT. 2. *Be it further enacted*, that whoever shall wilfully, maliciously, carelessly, or wantonly, break, throw down, extinguish, or otherwise injure, any of the said lamps, or the posts, irons, or other furniture, to the same belonging, shall be liable to the fines, penalties, and forfeitures, which are provided in and by an act entitled

“an act to prevent the wanton destruction of lamps,” made and passed on the eighteenth day of February, in the year of our Lord one thousand eight hundred and twenty-four; to be recovered and appropriated in the manner provided in said act.

SECT. 3. *Be it further enacted*, that the act entitled “an act for regulating lamps already set up, or that may hereafter be set up, for enlightening the streets, lanes, alleys, or passage-ways, in the town of Boston, and to prevent the breaking or otherwise damaging the same, and also establishing the method for paying the expenses that may arise in supporting or maintaining said lamps,” be, and is hereby, repealed: *provided*, the said act shall remain in force as to all fines, penalties, and forfeitures, which have been incurred prior to the passing of this act, in and by virtue thereof.

Repeal of act
passed June 29,
1773.

June 16, 1825.

1825. — CHAPTER 40.

AN ACT TO INCORPORATE THE TRUSTEES OF THE POOR'S FUND IN THE TOWN OF CHARLESTOWN.

Be it enacted, etc.:

SECTION 1. That James K. Frothingham and others, selectmen of the town of Charlestown, and Thomas Miller, Amos Tufts, and Matthew Skilton, deacons of the First Congregational church, William Arnold and James Fosdick, deacons of the Baptist church, Moses Hall, Daniel Tufts, and Joseph Gould, deacons of the Universalist church, Joseph Phipps and Elias Phinney, deacons of the New church, all of said Charlestown, for the time being, and their successors in the said offices of selectmen and deacons, for the time being, be, and they hereby are, made a body politic and corporate forever, by the name of the Trustees of the Charlestown Poor's Fund, for the purpose of managing certain donations given and bequeathed at different periods of time, by Richard Russell, Esq., Captain Richard Sprague, Mr. Thomas Call, and Richard Devens, Esq., all formerly inhabitants of the said Charlestown, and such other funds as may come into their hands for like purposes; and the said trustees, by the name aforesaid, may sue and be sued, prosecute and defend suits, with power of substitution, and may have a common seal, and the same may alter and renew at pleasure; and the two senior deacons of all regularly organized religious churches, which may hereafter be constituted, in said town of Charlestown, shall be considered as members of said board of trust: *provided*, that, whenever any new society shall be constituted in said town, the board of trust shall be composed of the selectmen and two senior deacons from each church, for the time being, and their successors in said offices.

Persons
incorporated.

Powers and
privileges.

Proviso.

SECT. 2. *Be it further enacted*, that the said trustees may choose a treasurer and other necessary officers, and may adopt all needful by-laws and regulations for the government of the corporation, not repugnant to the constitution and laws of this commonwealth, and the same may alter as they may find expedient and necessary.

Officers and by-
laws.

SECT. 3. *Be it further enacted*, that the said trustees shall have full power to receive and hold all money, securities, and other estate, real or personal, now constituting the said Poor's Fund, and also to receive and hold all gifts, grants, and donations, real and personal, that may hereafter be made to increase the said fund, and the same to manage, and put on interest, and to apply the income thereof annually, for the relief of the poor of said town forever, conformably to the true intent and meaning of the several donors: [*provided, how-*

Trustees may
receive and hold
the Poor's Fund.

ever, that the annual income of said fund shall not exceed the sum of two thousand dollars].¹

Trustees may
sell property.

SECT. 4. *Be it further enacted*, that the said trustees shall have power to make sale of any of their property, real or personal, purchased or given, as they shall judge most for the interest of their said trust, unless that which shall be given be expressly otherwise appropriated by the donor; and all moneys arising from such sale, and the subsequent income, shall be applied to the same use to which the property sold and the income thereof were respectively applicable; and all deeds, conveyances, contracts, and other instruments duly authorized by the board at a regular meeting, and signed by the president, and attested by the secretary, shall be good and valid.

First meeting.

SECT. 5. *Be it further enacted*, that James K. Frothingham be, and he hereby is, authorized to call the first meeting of the trustees, at such time and place as he shall think proper.

June 18, 1825.

[1868, 301; 1873, 286, § 12.]

1825. — CHAPTER 147.

AN ACT ESTABLISHING A FREE BRIDGE² IN THE CITY OF BOSTON.

Be it enacted, etc.:

Persons incor-
porated.

SECTION 1. That Nathaniel Whittemore, Noah Brooks, Cyrus Alger, William Wright, Adam Bent, David Henshaw, Jonathan Hunewell, Francis J. Oliver, Samuel K. Williams, and Hall J. Howe, and their associates, successors, and assigns, be, and they hereby are, constituted a corporation by the name of the Boston Free Bridge Corporation, with all the powers and privileges, and subject to the restrictions, usually incident to such corporations in this commonwealth.

Authorized to
build a free
bridge.

SECT. 2. *Be it further enacted*, that said corporation be, and they hereby are, authorized and empowered to build and construct, or cause to be built and constructed, a free bridge, with one or more suitable and sufficient draws, across the water, and over the channel, in or near a direction in a straight line from or near Sea street, in Boston, to the newly made land at South Boston, and nearly in the direction of the Dorchester turnpike, and to erect a wharf or pier on each side of said bridge, near said draws, for the accommodation of vessels passing through said bridge; such bridge and wharves to be built in such manner as the city government of Boston shall approve: *provided, however*, that said corporation shall be holden to make compensation to any person or corporation, whose land shall be appropriated to the use of said bridge.

Proviso.

Toll not to be
taken.

SECT. 3. *Be it further enacted*, that no toll or duty shall ever be exacted or paid for any travel over said bridge or passing the draws of the same; and said corporation shall always be held liable to keep said bridge and draws in good repair, and to raise the draw of said bridge and afford all necessary and proper accommodation to vessels that have occasion to pass the same, by night or by day, and shall keep said bridge sufficiently lighted; and if any vessel is unreasonably delayed or hindered in passing said draw, by the negligence of said corporation or their agents, in discharging the duties enjoined on them by this act, the owners or commanders of such vessels shall recover reasonable damages therefor, of said corporation, in an action on the case, before any court proper to try the same; and if the said

Liable to action
for unreasonable
detention of
vessels.

¹ Repealed by St. 1868, c. 301.

² Now called Free-street bridge. See Statutes and Ordinances (ed. 1876), p. 60, note; R.O., c. 40, § 1.

corporation shall not, within three years from the passing of this act, locate, construct, build, and complete, said bridge, agreeably to the provisions of this act, then this act shall be null and void: *provided*, that whenever the city government of Boston shall assume the care and obligations of keeping said bridge in repair, lighting the same, and providing facilities for raising said draw or draws, as aforesaid, then the obligations hereby imposed on said corporation to that effect shall be annulled, and the same shall devolve on the said city government; in which case the damages mentioned in this section shall be sued for before any court proper to try the same, in either of the counties of Middlesex or Essex. But unless the city government shall assume the care and obligations aforesaid, the said corporation, before commencing the building of said bridge, shall furnish adequate security, to the satisfaction of the said city government, for the due performance of the obligations and duties imposed on said corporation by the provisions of this act.

City of Boston may assume maintenance of said bridge, and be liable for damages.

SECT. 4. *Be it further enacted*, that any person or corporation, whose lands may be taken for the purpose and in the manner mentioned in the second section of this act, may apply, if within one year from the time any such damage may have happened, to the court of common pleas in the county of Suffolk, for a committee to be appointed to estimate the damage; and, upon such application, the court, after thirty days' notice to said corporation to appear and show cause why such committee should not be appointed, shall, if no good cause be shown to the contrary, appoint three or five disinterested freeholders within the county, at the expense of said corporation, which committee being first duly sworn before some justice of the peace, to be nominated by said court, and giving due notice to both parties to appear (if they see fit) for a hearing before them, shall proceed to the duties of their appointment; and they shall first inquire whether any damage has been sustained from the causes aforesaid, and, if any, shall estimate the same, and shall make return of their doings as soon as may be, into said court, and, upon acceptance of said report, judgment may be given thereon, with reasonable costs to the party prevailing: *provided, however*; that either party, after the return of said report, may claim a trial by jury, and the court thereupon shall stay judgment on said report, and a trial shall be had by jury at the bar of said court, and if the party applying for a jury shall not obtain (in case it be the original applicant), an increase of damages, or, in case it be the original respondent, a decrease of the damages awarded by the committee, such party shall pay reasonable costs of such trial by jury, otherwise shall recover reasonable costs, and upon any judgment rendered upon the report of such committee, or the verdict of such jury, the court may issue execution accordingly, and the same, when it shall be against said corporation, unless satisfied and paid, within thirty days from the rendition of such judgment, may be served and levied upon the goods or estate of any individual member of said corporation, and an action of debt may be maintained on such judgment; and if, upon notice to said corporation, as aforesaid, to show cause why such committee should not be appointed, said corporation shall appear and deny the applicant's title to the land taken, or claim a right to do what is complained of without payment of damages, or for an agreed composition, the court shall first order a trial of the issue at the bar of said court, or, if there be an issue in law, shall try it themselves; and, in either case, either party may appeal to the supreme judicial court, as in other cases, and a certificate of the determination of the supreme judicial court on such appeal in favor of the original applicant, shall be

Committee may be appointed to estimate damages.

Either party may have a trial by jury.

Appeal to supreme judicial court.

filed in said court of common pleas before such committee shall be appointed

City of Boston
may build said
bridge.

SECT. 5. *Be it further enacted*, that, if the city government of Boston shall, within three months from the passing of this act, determine, by a concurrent vote of both branches of the said city government, to erect said bridge, they shall be at liberty so to do, on the same terms and conditions as said Boston Free Bridge Corporation are otherwise, by the provisions of this act, authorized to erect the same.

Repeal of St.
1825, c. 115.

SECT. 6. *Be it further enacted*, that an act passed on the twenty-fifth day of February in the year of our Lord one thousand eight hundred and twenty-five, entitled "an act establishing a free bridge in the city of Boston," be, and the same is, hereby repealed.

March 4, 1826.

[1830, 121; 1831, 46; 1855, 406; 1869, 194.]

1825. — CHAPTER 182.

AN ACT CONCERNING JUVENILE OFFENDERS IN THE CITY OF BOSTON.

Be it enacted, etc. :

City of Boston
may erect a
house for the
reformation of
juvenile offend-
ers.
R.O. c. 33, § 2;
c. 53.

SECTION 1. That the city council of the city of Boston be, and hereby are, authorized to erect a building in said city, for the reception, instruction, employment, and reformation, of such juvenile offenders as are hereinafter named; or to use, for these purposes, the house of industry, or correction, at South Boston, or any other house or building belonging to said city, that the city council may appropriate to these uses.

Directors for the
reformation of
juvenile offend-
ers and their
powers.
1857, 35.
P.S. 220, § 20.

SECT. 2. *Be it further enacted*, that the directors of the said house of industry, or such other persons as said city council shall appoint as directors of said house, for the employment and reformation of juvenile offenders, shall have power, at their discretion, to receive and take into said house all such children who shall be convicted of criminal offences, or taken up and committed under and by virtue of an act of this commonwealth, "for suppressing and punishing of rogues, vagabonds, common beggars, and other idle, disorderly, and lewd persons," and who may, in the judgment of any justice of the supreme judicial court, sitting within and for the county of Suffolk, or of the judge of the municipal court of the city of Boston, or of any justice of the police court, within and for the city of Boston, be proper objects therefor; and upon the conviction or commitment [as], aforesaid, of any child, in the judgment of such judge or justice, a proper object for the said house of employment and reformation, the said judge or justice, previously to declaring the sentence of the law on such child, shall cause notice to be given to the directors of the said house; and in case the said directors shall declare their assent to the admission of such child into said house, the said judge or justice shall sentence him or her to be committed to said house of employment and reformation, subject to the control of the directors thereof, in conformity with the provisions of this act.

Courts may sen-
tence children to
house of refor-
mation.

SECT. 3. *Be it further enacted*, that any justice or judge of either of the said courts respectively, on the application of the mayor, or of any alderman of the city of Boston, or of any director of the house of industry, or house of reformation, or of any overseer of the poor of said city, shall have power to sentence to said house of employment and reformation all children who live an idle or dissolute life, whose parents are dead, or, if living, from drunkenness or other vices, neglect to provide any suitable employment, or exercise any

salutary control over said children. And the persons thus committed shall be kept, governed, and disposed of as hereinafter provided, the males till they are of the age of twenty-one years, and the females of eighteen years.

SECT. 4. *Be it further enacted*, that the directors of said house of industry, or such other persons as said city council shall appoint directors of the institution, authorized by this act, may receive the persons, sentenced and committed as aforesaid, into said institution, and they shall have power to place the persons committed to their care, the males until they arrive at the age of twenty-one years, and the females until they arrive at the age of eighteen years, at such employments, and to cause them to be instructed in such branches of useful knowledge as shall be suitable to their years and capacity; and they shall have power to bind out said minors as apprentices or servants, until they arrive at the ages aforesaid, to such persons, and at such places, to learn such arts, trades, and employments, as in their judgment will be most for reformation, amendment, and future benefit and advantage, of such minors. And the provisions of an act entitled "an act providing for the relief and support, employment, and removal, of the poor, and for repealing all former laws made for these purposes," passed the twenty-sixth day of February, in the year of our Lord one thousand seven hundred and ninety-four, contained in the fourth, fifth, and sixth sections thereof, so far as they relate to binding out children as servants or apprentices, are adopted as a part of this act; and the directors specified in this act shall have all the powers and be subject to all the duties of the overseers of the poor, as set forth in the sections aforesaid of the act aforesaid; and the master or mistress, servant and apprentice, bound out as aforesaid, shall have all the rights and privileges, and be subject to all the duties, set forth in the sections aforesaid of the act aforesaid.

Directors may place children at service.

SECT. 5. *Be it further enacted*, that whenever said directors, overseers, or managers, shall deem it expedient to discharge any minor, committed to their charge as aforesaid, and not bound out as a servant or apprentice, and shall recommend the same in writing to the court by whom such minor was committed, said court shall have power to discharge him or her from the imprisonment or custody aforesaid.

Minors may be discharged.

SECT. 6. *Be it further enacted*, that the said judge, or either of the said justices, on the application of either of the persons mentioned in the third section of this act, shall have power to order the transfer of any child committed to the common gaol, or the house of correction, and inmates of the same, at the time of passing this act, to the said house for the employment and reformation of juvenile offenders, to be received, kept, or bound out by the directors thereof in conformity with the provisions of this act.

Courts may transfer children committed to the common gaol.

SECT. 7. *Be it further enacted*, that it shall be lawful for the said city council, at their discretion, to establish within said city two or more houses of correction, to be houses of correction for the county of Suffolk; and it shall be lawful for the mayor and aldermen of said city to transfer persons held under sentence in either of said houses, to any other of said houses, when, in their opinion, the health, moral improvement, or beneficial employment, of such persons will be promoted thereby.

City may establish more than one house of correction.

March 4, 1826.

1826. — CHAPTER 111.

AN ACT IN ADDITION TO THE ACT ENTITLED "AN ACT CONCERNING THE HOUSE OF INDUSTRY IN THE CITY OF BOSTON."

Be it enacted, etc. :

Directors empowered to bind out children.

That the directors of the house of industry, in the city of Boston, shall have and exercise all the powers, and perform all the duties, relative to paupers, and the binding out of children and other persons committed to said house of industry for support, as the overseers of the poor of the several towns in this commonwealth now have and exercise, in relation to paupers and the binding out of children, and other persons, under and by virtue of the several laws of this commonwealth; and all acts of said directors shall impose the same duties, liabilities, and obligations, on all judicial tribunals, on the city of Boston aforesaid, and on the several towns and individuals of this commonwealth, as the same acts would impose if done and performed in the same manner by the overseers of the poor of the several towns in this commonwealth.

March 5, 1827.

[1822, 56; 1833, 126; 1857, 35.]

1829. — CHAPTER 44.

AN ACT TO INCORPORATE THE CHARITABLE ASSOCIATION OF THE BOSTON FIRE DEPARTMENT.

Be it enacted, etc. :

Persons incorporated.
1874, 343.

SECTION 1. That Edward G. Prescott, George Dearborn, and Jonathan A. Davis, with their associates and successors, be, and they hereby are, incorporated, by the name of the Charitable Association of the Boston Fire Department, for the purpose of affording relief to such of their members as may at any time receive injury in the discharge of their duties, as members of the Boston fire department, or to their families, in the event of their decease, and by that name may sue and be sued, and may have and use a common seal.

Real and personal estate.

SECT. 2. *Be it further enacted*, that the said corporation may receive and take by purchase, grant, devise, bequest, or donation, any real or personal property, and hold the same for the purposes aforesaid, and may manage and dispose of the same according to their discretion: *provided*, that the whole amount of the real and personal property held and possessed by the said corporation shall never exceed in value, at any one time, the sum of one hundred thousand dollars.

By-laws.

SECT. 3. *Be it further enacted*, that the said corporation may make and establish such by-laws and regulations, for the government of said corporation, as they may think proper: *provided*, the same are not repugnant to the laws and constitution of this commonwealth; and may choose and elect all necessary and convenient officers, who shall have such powers and authority as the said corporation may think proper to prescribe and grant to them, and who shall be elected in such manner, and for such periods of time, as the by-laws of said corporation may direct.

First meeting.

SECT. 4. *Be it further enacted*, that Edward G. Prescott, above named, be hereby authorized to call the first meeting of said corporation, by causing a notification thereof to be published, two weeks successively, in any two of the newspapers printed in the city of Boston.

SECT. 5. *Be it further enacted*, that this act may be altered, amended, or repealed, at the pleasure of the legislature. Legislative control.

February 13, 1830.

[1838, 131; 1874, 343.]

1830. — CHAPTER 121.

AN ACT IN ADDITION TO AN ACT ENTITLED "AN ACT ESTABLISHING A FREE BRIDGE IN THE CITY OF BOSTON."

Be it enacted, etc. :

SECT. 1. That the city of Boston be, and hereby is, authorized to construct and maintain such wharves or piers on either or both sides of the free bridge, mentioned in the act to which this is in addition, as shall be necessary for the preservation and safety of said bridge; *provided, however*, that the said wharves or piers shall not extend in width, from the sides of said bridge, more than twenty-five feet. City may build wharves to preserve bridge.

SECT. 2. *Be it further enacted*, that, if any person shall wilfully do any injury or damage to said bridge, said wharves or piers, or shall disturb or hinder the said city in the occupation of said wharves or piers, for the purpose aforesaid, the person so offending shall forfeit and pay, for each offence, a penalty not less than fifty dollars, nor more than one hundred dollars, to the use of the commonwealth, to be recovered by indictment or information, in any court of competent jurisdiction; and such person so offending shall be further liable to answer in damages to the city of Boston: *provided*, that nothing in this act shall be construed as intended to impair or affect the lawful rights of any person whatsoever. Penalty for malicious injury, etc.

SECT. 3. *Be it further enacted*, that whenever the wharves or piers erected, or which shall be erected, by the authority of this act, shall be used or improved for any other purpose or purposes than those herein specified, all right and authority to maintain them shall cease and be void. Wharves to be used for no other purposes.

March 18, 1831.

[1825, 147; 1831, 46; 1855, 406; 1869, 194.]

1831. — CHAPTER 17.

AN ACT IN FURTHER ADDITION TO THE SEVERAL ACTS REGULATING THE PAVING OF STREETS IN BOSTON.

Be it enacted, etc. :

That the surveyors of highways of the city of Boston, whenever they shall judge it expedient, may order any street of said city to be macadamized, and the several provisions of an act entitled "an act to regulate the paving of streets in the town of Boston, and for removing obstructions in the same," passed on the twenty-second day of June, in the year of our Lord one thousand seven hundred and ninety-nine, and of the several acts in addition thereto, shall be deemed and taken to apply to streets ordered to be macadamized, as well as to streets ordered to be paved in said city, and the macadamizing of any of said streets shall, to all intents and purposes of said several acts, be deemed equivalent to the paving of the same, and shall create the same liabilities in all respects, under the said several acts, as would be created under them by the paving of such streets. Surveyors of highways may order any street to be macadamized.

June 13, 1831.

[1799, 31; 1804, 73; 1809, 28; 1816, 90; 1833, 128.]

1831. — CHAPTER 46.

AN ACT IN ADDITION TO "AN ACT ESTABLISHING A FREE BRIDGE IN THE CITY OF BOSTON."

Be it enacted, etc. :

Wharves and
piers.

That no part of the wharves or piers which the city of Boston is authorized to construct, by virtue of an act passed on the eighteenth day of March, in the year of our Lord one thousand eight hundred and thirty-one, entitled "an act in addition to an act establishing a free bridge in the city of Boston," shall be maintained within the distance of forty feet of any wharf or pier which shall have been, or may hereafter be, lawfully constructed by any individual or individuals.

June 20, 1831.

[1825, 147; 1830, 121; 1855, 406; 1869, 194.]

1831. — CHAPTER 71.

AN ACT IN ADDITION TO AN ACT ENTITLED "AN ACT TO INCORPORATE THE PROPRIETORS OF BOSTON SOUTH BRIDGE."

Be it enacted, etc. :

Transfer of
bridge to the
city of Boston.

SECTION 1. That the proprietors of the Boston South Bridge are hereby authorized and empowered to sell, assign, and transfer, to the city of Boston, the franchise and materials of said Boston South Bridge, to have and to hold the same to the said city and its successors forever: *provided*, that no toll or duty shall ever be exacted or paid for any travel over said bridge, or passing the draw of the same, and the said city shall always be held liable to keep said bridge in good repair, and to raise the draw of said bridge, and afford all necessary and proper accommodation to vessels that have occasion to pass the same by night or by day, and shall keep said bridge sufficiently lighted.¹

Payment of
money and
transfer of
bridge.

SECT. 2. *Be it further enacted*, that, if, on or before the fifteenth day of September next, the said city of Boston shall not pay to the proprietors of the Boston South Bridge such sum as may be agreed on between them and the city of Boston, and receive a transfer or assignment of the franchise and materials of said bridge, according to the provisions of the first section of this act, then, and in such case, the said proprietors of Boston South Bridge are hereby authorized to surrender the franchise of said bridge to this commonwealth, at any time within six months after said fifteenth day of September next, by a formal deed of surrender duly executed and filed in the office of the secretary of this commonwealth, and that from and after the day of such surrender, the said corporation shall be dissolved, and exist no longer as a body corporate, excepting for the purpose of suing and being sued for recovery of debts due unto or from said proprietors.

Repeal.

SECT. 3. *Be it further enacted*, that so much of the act, to which this act is in addition, as is incompatible with the provisions of this act, be, and the same is, hereby repealed.

June 23, 1831.

¹ By deed dated April 19, 1832, the city purchased this bridge, together with the buildings, rights, wharves, and real estate, of "the proprietors of the Boston South Bridge," a corporation created by St. 1803, c. 13. (Suffolk Deeds, lib. 380, fol. 60.) The bridge is now called the Dover-street bridge. See Statutes and Ordinances (ed. 1876), p. 66.

1833. — CHAPTER 126.

AN ACT IN ADDITION TO THE SEVERAL ACTS "CONCERNING A HOUSE OF INDUSTRY IN THE CITY OF BOSTON."

Be it enacted, etc.:

SECTION 1. That the city council of the city of Boston are hereby empowered, whenever they deem it expedient, to appoint, by current ballot in each board, a sufficient number of persons, not exceeding twelve, a majority of whom shall constitute a quorum for the transaction of business, to be directors of the house of industry in the said city, who shall hold their office for the term of one year, and until others are appointed in their place; and said city council are further empowered, in like manner, to fill all vacancies which may occur in said board of directors, during the year for which it is appointed. And said directors may appoint a superintendent, and any other officers necessary for the government of said house, and shall have all the powers, and be subject to all the duties, prescribed to said board, by virtue of the several acts to which this is in addition.

City council empowered to appoint directors.
1857, 35, § 1.

SECT. 2. *Be it further enacted*, that the provisions of any previous act, which are inconsistent with this, be, and the same hereby are, repealed.

March 16, 1833.

[1822, 56; 1826, 111; 1857, 35.]

1833. — CHAPTER 128.

AN ACT IN ADDITION TO THE SEVERAL ACTS RESPECTING THE STREETS OF BOSTON.

Be it enacted, etc.:

That the city council of the city of Boston, may, from time to time, by any ordinance or ordinances, empower the surveyors of highways of said city so to regulate the width and height of the sidewalks of any public squares, places, streets, lanes, or alleys, in said city, as shall, in the judgment of said surveyors, be most conducive to the convenience and interest of said city, any law of the commonwealth to the contrary notwithstanding; and may also empower said surveyors to accept such sidewalks, after the same shall be put in good and perfect repair by the abutters on said squares, places, streets, lanes, and alleys, and after the same shall have been relinquished in writing to the said city by such abutters; and may also order that, after such relinquishment, such sidewalks may be maintained at the expense of said city.

City council may empower surveyors of highways to regulate sidewalks.
R.O. c. 26, § 62.

March 16, 1833.

[1799, 31; 1809, 28.]

1833. — CHAPTER 151.

AN ACT FURTHER REGULATING THE STORAGE, SAFE-KEEPING, AND TRANSPORTATION OF GUNPOWDER IN THE CITY OF BOSTON.¹

Be it enacted, etc.:

SECTION 1. That no person, except on military duty in the public service of the United States, or of this commonwealth, shall keep, have, or possess, in any building, or in any place, or in any carriage, or on any wharf, or on board of any ship or other vessel, within two

Gunpowder not to be kept without license.
P.S. 102, §§ 56 et seq.

¹ The preceding acts herein referred to, having been repealed or superseded, are omitted.

hundred yards of any wharf, or of the main land, in the city of Boston, gunpowder in any quantity exceeding one pound, in any way or manner, other than by this act, and by the rules and regulations hereinafter mentioned, may be permitted and allowed. And all gunpowder had, kept, or possessed, contrary to the provisions of this act, and of such rules and regulations, shall be forfeited, and liable to be seized and proceeded against in the manner hereinafter provided.

Licenses, etc.

SECT. 2. *Be it further enacted*, that it shall not be lawful for any person or persons to sell gunpowder, which may, at the time, be within the city of Boston, in any quantity, without first having obtained, from the engineers of said city, a license, signed by the chief engineer, or by the secretary of the board of engineers, on which shall be written, or printed, a copy of the rules and regulations by them established, relative to keeping, selling, and transporting gunpowder within said city, and every such license shall be in force for one year from the date thereof, unless annulled by the board of engineers, and no longer; but such license may, prior to the expiration of that term, be renewed by the chief engineer, or the said secretary, from year to year, by endorsement thereon: *provided, always*, that the board of engineers may rescind any such license, if in their opinion the person or persons have disobeyed the law, or infringed any rules and regulations established by said board of engineers. And every person, who shall receive a license to sell gunpowder as aforesaid, shall pay for the same the sum of *five dollars*, — and for the renewal thereof the sum of *one dollar*, — which sums shall be paid to the board of engineers, for their use for the purpose of defraying the expenses of carrying this act into execution.

Rules and regulations.

SECT. 3. *Be it further enacted*, that the board of engineers of the city of Boston may establish rules and regulations, from time to time, relative to the times and places at which gunpowder may be brought to or carried from said city by land or water, the times when, and manner in which, the same may be transported through the said city, to direct and regulate the kind of carriages and boats, in which the same may be so brought to, carried from and through, said city, and to direct the manner in which gunpowder may be kept by licensed dealers and other persons, and to direct and require all such precautions as may appear to them needful and salutary to guard against danger in the keeping and transportation of gunpowder.

Penalty for selling without license.
Gunpowder may be seized, etc.
1 Met. 225.

SECT. 4. [Repealed by St. 1837, c. 99.]

SECT. 5. *Be it further enacted*, that all gunpowder, which shall be kept, had, or possessed, within the city of Boston, or brought into or transported through the same, contrary to the provisions of this act, and to the rules and regulations made as aforesaid, may be seized and taken into custody by any one or more of the engineers of said city, and the same shall, within twenty days next after the seizure thereof, be libelled, by filing, in the office of the clerk of the municipal court of the city of Boston, a libel, stating the time, place, and cause, of such seizure, a copy of which libel, or the substance thereof, together with a summons or notice, which such clerk is hereby authorized to issue, shall be served on the person or persons in whose custody or possession such gunpowder shall have been seized, if such person be an inhabitant of the commonwealth, by delivering a copy thereof to such person or persons, or leaving such a copy at his, her or their usual place of abode, fourteen days at least before the sitting of the court, at which the same is to be heard, that such person or persons may appear and show cause why the gunpowder so seized and taken should not be adjudged forfeit. And if the gunpowder so seized shall be adjudged forfeit, the person or persons, in whose custody or

possession the same was seized, or the occupant or tenant of the place wherein the same was so seized, shall pay all costs of prosecution, and execution shall be issued therefor: *provided*, that it appear to the court that such person or persons had notice of such prosecution by service as aforesaid, and in case the person or persons in whose custody or possession such gunpowder may be seized, shall be unknown to the engineer or engineers making such seizure, or in case such gunpowder, at the time of seizure, may not be in the custody or possession of any person, or if it shall appear by the return of the officer that such person cannot be found, or has no place of abode in this commonwealth, then said court shall and may proceed to adjudication thereon. And such libel or summons, and also such writ of execution for costs, shall and may be served and executed in any county in this commonwealth, and by any officer competent to execute civil process in like cases.

Provido.

SECT. 6. *Be it further enacted*, that any person or persons, who shall rescue, or attempt to rescue, any gunpowder seized as aforesaid, or shall aid or assist therein, or who shall counsel and advise, or procure the same to be done, or who shall molest, hinder, or obstruct any engineer in such seizure, or in conveying gunpowder so seized to a place of safety, shall forfeit and pay a fine for each offence of not less than one hundred dollars, and not exceeding five hundred dollars, to be sued for and recovered by action of the case, by any person or persons who shall sue for the same, in any court proper to try the same; and it is hereby made the duty of all persons to aid and assist such engineer or engineers in executing the duties hereby required.

Fine for rescuing gunpowder, or attempting to rescue it.

SECT. 7. *Be it further enacted*, that the said engineers, or any of them, may enter the store or place of any person or persons licensed to sell gunpowder, to examine and ascertain if the laws, rules, and regulations, relating thereto are strictly observed; and, on an alarm of fire, may cause the powder there deposited to be removed, or destroyed, as the case may require; and it shall be lawful for any one or more of the engineers of said city to enter any dwelling-house or other place in the city of Boston to search for gunpowder, first having obtained from a justice of the police court in said city a search warrant therefor, which warrant the justices of said court are hereby authorized to issue, upon the complaint of such engineer or engineers, supported by his or their oath.

Engineers may enter stores, etc., to search for gunpowder

SECT. 8. *Be it further enacted*, that any person who shall suffer injury by the explosion of any gunpowder, had, kept, or transported, within the city of Boston, contrary to the provisions of this act, and of the rules and regulations established as aforesaid, may have an action of the case in any court proper to try the same, against the owner or owners of such gunpowder, or against any other person or persons who may have had the possession or custody of such gunpowder, at the time of the explosion thereof, to recover reasonable damages for the injury thus sustained.

Persons suffering by explosion may have an action of the case, etc.

SECT. 9. *Be it further enacted*, that it shall be the duty of the engineers of the city of Boston to cause all such rules and regulations as they may make and publish, by virtue of the authority given by this act, to be published in two or more newspapers printed in the city of Boston, and to cause such publication to be continued three weeks successively for the information and government of all persons concerned.

Rules and regulations.

SECT. 10. *Be it further enacted*, that all fines, penalties, and forfeitures, which may arise and accrue under this act, shall and may be prosecuted for and recovered, either in the manner hereinbefore specially provided, or by indictment, complaint, or information, in any court proper to try the same. And this act shall be taken and deemed

Fines, how recovered.

to be a public act, of which all courts, magistrates, and citizens, are bound to take notice as such; and in any libel, action, indictment, information, or complaint, upon this act, it shall not be necessary to set forth any more of the same than so much thereof as relates to, and may be necessary truly and substantially to describe, the offence alleged to have been committed.

Fines, how ap-
propriated.
Repeal.

SECT. 11. [Repealed by St. 1837, c. 99.]

Proviso.

Proviso.

SECT. 12. *Be it further enacted*, that this act shall take effect and be in force from and after the passing thereof, and that all acts and parts of acts, heretofore passed, which are inconsistent with, or repugnant to, the provisions of this act, be, and the same are, hereby repealed: *provided, however*, that the same shall continue in force, for the purpose of prosecuting all offences which may have been committed prior to the passing of this act, in the same manner, to all intents and purposes, as if the same had not been repealed: *and provided, further*, that all rules and regulations, made and established by the engineers of said city, under and by virtue of the provisions of such former acts, shall continue to have the same force and effect, until altered or annulled by said engineers, as if this act had not been passed.

March 25, 1833.

[1837, 99; 1841, 58; 1882, 269.]

1834. — CHAPTER 102.

AN ACT TO SET OFF THOMPSON'S ISLAND FROM THE TOWN OF DORCHESTER, AND TO ANNEX THE SAME TO THE CITY OF BOSTON.

Be it enacted, etc.:

Thompson's isl-
and annexed to
the city of Bos-
ton.

Proviso.

Taxation.

SECTION 1. That Thompson's island, lying in the harbor of Boston, and heretofore a part of the town of Dorchester, with the inhabitants thereon, is hereby annexed to the city of Boston in the county of Suffolk; and said island shall hereafter be considered and deemed to be a part of the city of Boston: *provided*, that the said island shall revert to the town of Dorchester in one year after it shall cease, by the voluntary act of the proprietors, to be used for the purposes of a farm school, or other charitable public purposes, and shall be appropriated to any other use: *and provided, also*, that nothing in this act contained shall destroy or affect any lawful right that the inhabitants of the said town of Dorchester may now have to dig and take clams on the banks of said island.

SECT. 2. *Be it further enacted*, that said island shall be exempted from taxation, so long as it shall continue to be appropriated to the use of the Boston farm school, or to any similar public charity.

March 25, 1834.

1834. — CHAPTER 130.

AN ACT TO INCORPORATE THE PROPRIETORS OF CHELSEA FREE BRIDGE.

Be it enacted, etc.:

SECTION 1. That Benjamin T. Reed, Amos Binney, John Henshaw, and their associates, successors, and assigns, are hereby made a body corporate, by the name of The Proprietors of Chelsea Free Bridge.

SECT. 2. *Be it further enacted*, that said corporation is hereby authorized to build a bridge across Chelsea creek, from the northerly side of Noddle's island, in the harbor of Boston, to the farm of Benjamin Shurtleff, in Chelsea; which bridge shall be well built, of

good and sufficient materials, not less than twenty-five feet wide, with sufficient railings for the protection of passengers, with a good and sufficient draw not less than twenty-five feet wide; which draw shall, at all times, on demand, be raised for the passage of vessels that cannot pass under said bridge, and said bridge shall be furnished with proper piers on both sides, above and below, for the accommodation of vessels passing through the same. And, in case any such vessel, about to pass said bridge, shall be detained more than one hour, the corporation shall forfeit and pay to the owner or owners of such vessel, a sum not less than three dollars, nor more than twenty dollars, to be recovered by action of debt in any court proper to try the same. And no toll shall be demanded of any person or persons who shall pass over said bridge: *provided, always*, that if, at any time hereafter, the proprietors of said bridge shall lay out, or cause to be laid out and made, any road from the Chelsea end of said bridge to any road whatsoever, within the limits of the town of Chelsea, the inhabitants of said town shall never be chargeable with any cost or expense whatsoever, for the laying out, making, repairing, or maintaining, such road: *and provided, also*, that said corporation shall not build said bridge, until a good and sufficient bond, to be approved by the treasurer of this commonwealth, in the penal sum of three thousand dollars, shall be filed in the office of said treasurer, conditioned to pay all penalties and forfeitures that may be incurred within the meaning and intent of this act; and said corporation shall be liable for all damages to travellers over said bridge, happening through any defect of the same, in the same way and manner as towns are liable for defects in public highways and bridges, and the condition of the bond hereinbefore mentioned shall also provide for the payment of all damages which may be so sustained.

Piers.

Forfeiture for detaining vessels.

Proviso.

Corporation to give bond to the commonwealth.

SECT. 3. *Be it further enacted*, that if said corporation shall neglect for the space of three years after the passing of this act to build said bridge, then this act shall be void.¹

Time for building the bridge.

March 28, 1834.

[1849, 109.]

1834. — CHAPTER 168.

AN ACT CONCERNING THE ISLANDS AND BEACHES IN THE HARBOR OF BOSTON.

Be it enacted, etc.:

SECTION 1. That if any person shall wilfully carry away from any island within the harbor of Boston, or from any beach adjacent thereto, any earth, gravel, stone, or other material, composing such island or beach, without the consent of the owner thereof, the person or persons so offending shall forfeit and pay, for each offence, to the use of the commonwealth, a sum not exceeding one hundred dollars, nor less than five dollars, to be recovered by indictment in any court competent to try the same: *provided*, that this act shall not be construed to prevent the taking of shell-fish from such islands and beaches.

Penalty for carrying away earth, gravel, etc.
11 Met. 55.

SECT. 2. *Be it further enacted*, that if any person shall wilfully build a fire on Spectacle island, in the harbor aforesaid, without the consent of the owner or owners thereof, such person shall suffer the like forfeiture, and to be recovered and appropriated in like manner as is provided in the first section of this act.

Penalty for building a fire on Spectacle island.

March 31, 1834.

¹ See Statutes and Ordinances (ed. 1876), p. 73.

1835. — CHAPTER 100.

AN ACT TO INCORPORATE THE PROPRIETORS OF CHELSEA-POINT BRIDGE.

*Be it enacted, etc. :*Persons incorpo-
rated.

SECTION 1. That Joseph Burrill, Joseph Belcher, John W. Tewksbury, and their associates, successors, and assigns, are hereby made a corporation by the name of The Proprietors of Chelsea-Point Bridge.

Location of
bridge.

SECT. 2. *Be it further enacted*, that said corporation is hereby authorized to build a bridge from the westerly side of Pulling Point, in the town of Chelsea, to the easterly side of Belle Isle, lying within the limits of the city of Boston, across the creek running between the two places aforesaid; which bridge shall be well built, of good and sufficient materials, not less than twenty feet wide, with sufficient railings for the protection of passengers. And no toll shall be demanded of any person or persons who shall pass over said bridge, and said corporation shall be liable for all damages to travellers over said bridge, happening through any defect of the same, in the same way and manner as towns are liable for all defects in public highways and bridges.

Condition of this
act.

SECT. 3. *Be it further enacted*, that if said corporation shall neglect, for the space of three years after the passing of this act, to build said bridge, then this act shall be void.

April 1, 1835.

[1849, 106.]

1837. — CHAPTER 99.

AN ACT IN ADDITION TO "AN ACT FURTHER REGULATING THE STORAGE, SAFE-KEEPING, AND TRANSPORTATION OF GUNPOWDER IN THE CITY OF BOSTON."

*Be it enacted, etc. :*Forfeiture for
keeping or sell-
ing gunpowder
contrary to law.

SECTION 1. Any person who shall keep, have, or possess, any gunpowder within the city of Boston, contrary to the provisions of the act to which this act is in addition, or to the rules and regulations of the board of engineers therein mentioned, or who shall sell any gunpowder in said city, without having a license therefor, or contrary to such license, or the rules and regulations aforesaid, shall forfeit a sum not less than one hundred dollars, and not exceeding five hundred dollars, for each offence; and if any gunpowder, kept contrary to the provisions of the act aforesaid, or to such license, or to the rules and regulations aforesaid, shall explode in any building, or on board of any ship or other vessel, or in any place in said city, the occupant, tenant, or owner, of which has not then a license to keep and sell gunpowder therein, such occupant, tenant, or owner, shall forfeit a sum not less than one hundred dollars, and not exceeding one thousand dollars for each offence.

Forfeiture in
case of explo-
sion.Use of fines and
forfeitures.

SECT. 2. The several fines, penalties, and forfeitures, mentioned in this act, and in the act to which this is in addition, shall enure to the sole use of the board of engineers of the fire department of the said city of Boston: *provided, however*, that whenever on the trial of any prosecution under the said acts, any one or more of the said engineers shall be sworn and examined as a witness on behalf of the prosecution, a record thereof shall be made in court, and, in such case, the fine, penalty, or forfeiture, shall enure to the use of the poor of the city of Boston, to be paid over to the overseers of the poor thereof.

SECT. 3. The fourth and eleventh sections of the act to which this Repeal. is in addition, are hereby repealed.

March 28, 1837.

[1833, 151; 1841, 58; 1882, 269.]

1837. — CHAPTER 229.

AN ACT TO PRESERVE THE HARBOR OF BOSTON, AND TO PREVENT ENCROACHMENTS THEREIN.¹

Be it enacted, etc.:

SECTION 1. The line hereinafter described, from the free bridge in the harbor of Boston to Warren bridge in said harbor, shall be, and the same is hereby, established as one of the lines in said harbor, beyond which no wharf or pier shall ever hereafter be extended into and over the tide water of the commonwealth. Line in the harbor established.

SECT. 2. The said line begins at the east end of the north abutment of the free bridge, and runs straight to the southerly corner of Brown's wharf; thence, by the end of the same, and of Wright's four wharves, fronting on the channel, to the east corner of Wright's north-east wharf; thence, on a straight line, to the south corner of Wales' wharf, and by the end of the east angle of the same; thence, from this last point, straight to the east corner of Russia wharf; thence, to the south angle of Fort Hill wharf straight, and by the end of the wharf to the east corner; thence to the south corner of Arch wharf the line is straight; the line then follows the end of the last, and Otis' wharf to the east corner of the last; the direction is then, straight to the south-east angle of Foster's south wharf; then, straight to the south corner of Rowe's wharf. From this point in a straight direction to the south corner of Long wharf; thence, straight to the south angle of the advanced part of the said wharf, and by the end of the same to the east corner thereof; thence, the line is straight to the east end of Union wharf. From the last point, straight to the south-east corner of Battery wharf. Here the next three lines commence to advance further into deep water than the following wharves, to the west corner of Gray's, and are thus drawn through the south-east angle of Battery and the west corner of Gray's wharf; a circular arc is struck, with a radius of twelve hundred feet, and three equal chords of four hundred and seventy feet are drawn upon this arc; then, from Battery wharf, the line is northerly four hundred and seventy feet, forming an angle of twenty-seven degrees and fifteen minutes with the chord of the said arc. From the end of the last, the line is also four hundred and seventy feet long, and parallel with the said chord. From the end of the last-mentioned line the line is four hundred and seventy feet to the west corner of Gray's wharf, forming the same angle with the chord of the whole arc as that from Battery wharf. From Gray's, the line is straight to the north corner of Vinal's wharf. The line then passes along the end of this and Brown's wharf to the west corner of the last; thence, straight, crossing Charles-river bridge to the north-east corner of Trull's wharf; thence, the line is straight, to the south abutment of Warren bridge. Which said line thus described is part of the line reported by commissioners appointed under the resolve, passed the fifth day of March, in the year one thousand eight hundred and thirty-five, to survey the harbor of Boston, and by Boundary line described.

¹The lines of Boston harbor are shown on plans kept in the state library and in the office of the harbor and land commissioners of the commonwealth, under a provision that the public shall have a right to examine them. (St. 1880, c. 170, § 4.) The following acts establishing such lines are here referred to, but are not printed in this volume: Sts. 1840, 35; 1841, 60; 1847, 234, 278; 1849, 204; 1850, 216, 317; 1851, 254; 1853, 385; 1855, 310; 1856, 293; 1860, 176; 1864, 310; 1871, 335; 1872, 351; 1873, 231, 232, 263, 332; 1874, 302; 1877, 116; 1878, 177; 1880, 170; 1882, 48.

said commissioners drawn and defined on plans by them taken, and deposited in the library, excepting that the line herein described and intended, varies from the line of said commissioners by crossing Charles-river bridge in a straight line from Brown's wharf to Trull's wharf, as above expressed.

Extension of wharves, etc., limited.

SECT. 3. No wharf, pier, or building, or incumbrance of any kind, shall ever hereafter be extended beyond the said line into or over the tide water in said harbor.

No wharf, etc., to be extended without leave of legislature.

SECT. 4. No person shall enlarge or extend any wharf or pier, which is now erected on the inner side of said line, further towards the said line than such wharf or pier now stands, or than the same might have been lawfully enlarged or extended before the passing of this act, without leave first obtained from the legislature.

No wharf, etc., to be erected in the harbor.

SECT. 5. No person shall, in any other part of the said harbor of Boston, belonging to the commonwealth, erect or cause to be erected any wharf or pier, or begin to erect any wharf or pier therein, or place any stones, wood, or other materials, in said harbor, or dig down or remove any of the land covered with water at low tide, in said harbor, with intent to erect any wharf or pier therein, or to enlarge or extend any wharf or pier now erected: *provided, however*, that nothing herein contained shall be construed to restrain or control the lawful rights of the owners of any lands or flats in said harbor.

Offences against this act, how punished.

SECT. 6. Every person offending against the provisions of this act, shall be deemed guilty of a misdemeanor, and shall be liable to be prosecuted therefor, by indictment or information, in any court of competent jurisdiction, and on conviction shall be punished by a fine not less than one thousand dollars, nor more than five thousand dollars, for every offence, and any erection or obstruction which shall be made, contrary to the provisions and intent of this act, shall be liable to be removed and abated as a public nuisance, in the manner heretofore provided for the removal and abatement of nuisances on the public highways.

No ashes to be thrown into the harbor.

SECT. 7. No ashes, cinders, or other rubbish, or materials of any description shall be put or thrown out of any steamboat in the harbor of Boston above Fort Independence, under a penalty of ten dollars for each offence.

SECT. 8. This act shall go into operation from and after the passing of the same.

April 19, 1837.

1838. — CHAPTER 131.

AN ACT IN ADDITION TO "AN ACT TO INCORPORATE THE CHARITABLE ASSOCIATION OF THE BOSTON FIRE DEPARTMENT."

Be it enacted, etc. :

Persons who may become members.

SECTION 1. Every member of the Boston fire department shall, at all times hereafter, have a right to be admitted a member of the "Charitable Association of the Boston Fire Department;" also all the members of the Veteran Association of the Boston Fire Department, who shall have been, for the term of seven successive years, members of said fire department, shall have the right of becoming members of the said "Charitable Association," by producing to the secretary of the association sufficient evidence of membership, subscribing to the constitution of the association, and paying to the treasurer such sum, not exceeding one dollar, as the association shall, from time to time, direct; which payment shall be in full for the annual contribution of the current year.

On what terms. 1874, 343, § 2.

SECT. 2. The treasurer of said association is hereby authorized and required, after paying the debts of the association, to invest with the Massachusetts Hospital Life Insurance Company, for a term not exceeding thirty years, the residue of the available funds of the association, not exceeding the sum of three thousand dollars; and the income thereof shall be applied, by the trustees of said association, for the time being, at their discretion, to the relief or assistance of any member of the association, or his family, or of any past member, who has belonged to said fire department for five years, and has been honorably discharged therefrom; and any cause of distress, in these cases, shall be considered as entitled to the attention of the board of trustees.

Treasurer to invest funds.

Income of investment, how to be applied.

SECT. 3. The association shall have the right to add to the fund provided for in the second section of this act, all such donations as may be given for that purpose, and to place at the disposal of the trustees, to be appropriated to the purposes contemplated by said second section, such further sums as they may, from time to time, see fit, not to exceed one-tenth part of the whole annual income of the association.

Treasurer may add donations to fund.

SECT. 4. All provisions contained in the act to incorporate the Charitable Association of the Boston Fire Department, passed February thirteenth, in the year one thousand eight hundred and thirty, to which this act is in addition, inconsistent with the foregoing provisions, are hereby repealed.

Provisions in former act inconsistent with this repealed.

SECT. 5. This act shall take effect from and after its passage.

April 17, 1838.

[1829, 44; 1874, 343.]

1839. — CHAPTER 131.

AN ACT TO ESTABLISH THE BOSTON LUNATIC HOSPITAL.

Be it enacted, etc.:

SECTION 1. The city council of the city of Boston are hereby authorized to erect and maintain a hospital, for the reception of insane persons not furiously mad; and provision shall be made for the comfortable support of all persons confined therein.

City council authorized to erect hospital.

[SECT. 2. The said city council shall appoint a superintendent, who shall be a physician, and constantly reside at said hospital.]

Repealed by St. 1851, c. 243.

SECT. 3. The said city council shall have power to pass such ordinances as they may deem expedient for conducting, in a proper manner, the business of the institution, and for appointing such other officers as, in their opinion, may be necessary.

Amended by St. 1851, c. 243.

SECT. 4. The inspectors of prisons for the county of Suffolk shall be inspectors of said hospital, and shall perform the like duties in relation to it that they are now by law required to perform in relation to the prisons in said county.

Who shall be inspectors, and their duties.

SECT. 5. [Whenever it shall appear, on application in writing to the judge of the municipal court in the city of Boston, that any person is insane, not being furiously mad, the said judge is hereby authorized to order the confinement of such person in the said hospital: *provided*, that, upon the request of such person, the question of his sanity shall be tried by a jury in said court. Such sum per week shall be allowed and paid, for the support of every such person confined as aforesaid, as the mayor and aldermen of the city of Boston shall direct; and if, in any case, there shall be no parent, kindred, master, guardian, town, or city, obliged by law to maintain the person so confined, and if he have no means of supporting himself, the same sum shall be paid

Provision for commitments by judge of municipal court.

Support of inmates. Repealed by 1840, 79, § 4.

Discharge there-
of.

out of the treasury of the commonwealth for his support, as may be allowed for other lunatics or insane state paupers; and any person, committed as aforesaid by said judge, may at any time be discharged, when, in his opinion, such discharge would be for the benefit of the person so confined, or when, in his opinion, such person would be comfortably supported by any parent, kindred, friends, master, or guardian, or by any town or city in which such person may have a legal settlement; and the said judge, jury, and other officers, and all witnesses, shall receive the same fees and compensation for services performed, and for attendance and travel, as are allowed by law for like services in criminal proceedings, to be taxed, allowed, and paid in the same manner.]

What persons
shall be confined
in the hospital.

SECT. 6. All insane persons who are now confined in the house of correction or the house of industry in said city, or may hereafter be subject to confinement therein, and all lunatics, idiots, and other patients, who shall be removed from the state lunatic hospital at Worcester, to the city of Boston, by the trustees thereof, by virtue of the fourteenth and fifteenth sections of the forty-eighth chapter of the revised statutes, shall hereafter be confined in the said Boston lunatic hospital.

Discharge of
lunatics received
from state hos-
pital.

SECT. 7. Any lunatic or insane person, who may be confined in said hospital, upon his removal from the state lunatic hospital, as provided in the preceding section, may be discharged therefrom by the mayor and aldermen of said city, whenever the cause of confinement shall have ceased to exist; and said mayor and aldermen, whenever, in their opinion, such lunatic or insane person can in such manner be more comfortably provided for, and the safety of the public will not be endangered thereby, may provide for his custody and support in other places than in said hospital, the said lunatic or insane person still continuing subject to the order and direction of the said mayor and aldermen; or said mayor and aldermen may deliver him to the custody and care of any city or town in which he may have a legal settlement. The expense of so providing for such lunatic or insane person shall be reimbursed in the same manner, and recovered by the same remedies as are provided in the sixteenth section of the forty-eighth chapter of the revised statutes: *provided*, that in no case shall the sum charged for such provision exceed two dollars and fifty cents per week.

Repeal.

SECT. 8. All laws inconsistent with this act are hereby repealed.

When to take
effect.

SECT. 9. This act shall take effect from and after its passage.

April 8, 1839.

[1840, 79; 1851, 243; 1857, 281, 302.]

1840. — CHAPTER 79.

AN ACT IN ADDITION TO "AN ACT TO ESTABLISH THE BOSTON LUNATIC HOSPITAL."

Be it enacted, etc.:

Insane persons
may be sent to
the hospital by
order of police
court, saving the
right of appeal
to municipal
court, etc.
1857, 302.

SECTION 1. Whenever it shall be made to appear, on application, in writing, to the police court¹ of the city of Boston, that any person is insane, not being furiously mad, and is either chargeable or likely to become chargeable to the city or the state; or, being furiously mad, has his legal settlement in and is chargeable to said city, the said police court are hereby authorized to order the confinement of such person in the said Boston lunatic hospital, saving to the person complained against the right to appeal from such order to the mu-

¹ Now the municipal court.

municipal court¹ of the city of Boston, as is now allowed from other judgments of said police court, by law. And, upon his appeal, the question of his sanity shall, upon his request therefor, be tried by a jury in said court. If, on such appeal, it shall be made to appear that such person is insane as aforesaid, and is, or is likely to be, chargeable as aforesaid, the said municipal court shall affirm the judgment of the said police court, with additional costs, and issue a warrant for his commitment according to law; otherwise such person shall be discharged.

SECT. 2. Any person who shall apply for the commitment of any lunatic, under the provisions of the preceding section, shall first give notice in writing to the mayor of the city of Boston, of his intention to make such application; and satisfactory evidence that such notice has been given shall be produced to the said police court, at the time of making such application. And the said police court may order any further notice of such application to be given to the person complained of, or to any other person or persons in his behalf, as they shall deem to be necessary or reasonable.

Persons applying for the commitment of lunatics to give notice to mayor.

SECT. 3.² Any person committed to said hospital by either of the courts as aforesaid, and any person who may be confined in said hospital, upon his removal from the state lunatic hospital, as provided in the sixth section of the act, to which this is an addition, may at any time be discharged therefrom by the mayor and aldermen of the said city of Boston, whenever the cause of confinement shall have ceased to exist, or when, in the opinion of the said mayor and aldermen, such discharge would be for the benefit of the person so confined, or when in their opinion such person would be comfortably supported by any parent, kindred, friends, master, or guardian, or by any town or city in which said person may have a legal settlement. And said mayor and aldermen, whenever in their opinion such lunatic or insane person can in such manner be more comfortably provided for, and the safety of the public will not be endangered thereby, may provide for his custody and support in other places than in said hospital, the said lunatic or insane person still continuing subject to the order and direction of the said mayor and aldermen; or, said mayor and aldermen may deliver him to the custody and care of any city or town in which he may have a legal settlement. The expense of so providing for such lunatic or insane person shall be reimbursed in the same manner and recovered by the same remedies as are provided in the sixteenth section³ of the forty-eighth chapter of the revised statutes: *provided*, that in no case shall the sum charged for such provision exceed two dollars and fifty cents per week.

Provisions concerning discharged persons confined in the hospital.

SECT. 4. So much of the one hundred and thirty-first chapter of the statutes of the year one thousand eight hundred and thirty-nine, as relates to the commitment of persons to the said Boston lunatic hospital, by the judge of the municipal court of the city of Boston, and to their discharge therefrom by him, is hereby repealed; but all orders of the said judge relating thereto, and rendered prior to the time this act shall take effect, shall remain in full force.

Repeal, in part, of 1839, 131.

SECT. 5. This act shall take effect from and after its passage.

When to go into effect.

March 23, 1840.

[1839, 131; 1857, 35, 281, 302; P.S. 87, § 11 *et seq.*]

¹ Now the superior court.

² The powers enumerated in this section are now vested in the Board of Directors for Public Institutions. See St. 1857, c. 35, § 2.

³ Re-enacted in Gen. Sts., c. 73, § 28; but said § 28 was repealed by St. 1862, c. 223, § 18.

1841. — CHAPTER 58.

AN ACT IN ADDITION TO "AN ACT FURTHER REGULATING THE STORAGE, SAFE-KEEPING, AND TRANSPORTATION OF GUNPOWDER IN THE CITY OF BOSTON."

Be it enacted, etc. :

Police court to have jurisdiction in cases of seizure of less than ten quarter casks of powder.
1 Mt. 225, 232.

1833, 151.

Right of appeal provided for.

Fines and penalties, how sued for.
1837, 99.

SECTION 1. Whenever any quantity less than ten quarter-casks of gunpowder shall be seized and taken into custody by any one or more of the engineers of the fire department of the city of Boston, a libel or complaint may be filed in the clerk's office of the police court¹ of said city of Boston, and the said police court of said city shall have jurisdiction thereof; and the like proceedings thereon (excepting a trial by jury), shall be had in said court as are provided for by the fifth section of the act passed on the twenty-fifth day of March, in the year one thousand eight hundred and thirty-three, to which this is an addition, in the like cases of seizures and proceedings before the municipal court; saving always to any party aggrieved by any final judgment of said police court, the right of appeal and trial by jury in said municipal court.

SECT. 2. All fines, penalties, and forfeitures, imposed by the act to which this is in addition, and by an act in further addition thereto, passed on the twenty-eighth day of March, in the year one thousand eight hundred and thirty-seven, may be sued for and recovered by the chief engineer, or any one or more of the engineers of the fire department of the said city of Boston, or by any person thereto authorized by a vote of the board of engineers of the said fire department.

March 6, 1841.

[1833, 151; 1837, 99; 1882, 269.]

1843. — CHAPTER 22.

AN ACT CONCERNING THE HOUSE FOR THE REFORMATION AND EMPLOYMENT OF JUVENILE OFFENDERS IN THE CITY OF BOSTON.

Be it enacted, etc. :

Establishment of branches of house of reformation.

Power of committing children by municipal or police court.
Repeated by
1847, 208, § 2.

Right of appeal continued.

SECTION 1. The city of Boston is hereby authorized to establish, in any building or buildings, or part of any building, used by said city, as a house of industry, or for any other purpose, a separate branch or branches of said house of reformation and employment, for females, or for the separate classification of such females.

SECT. 2. [The municipal or police court of said city, upon the complaint, under oath, of the mayor, or any alderman thereof, or of any of the directors of the house of industry, or of the said house of reformation and employment, or of the overseers of the poor of said city, that any child or children live an idle and dissolute life, and that their parents are dead, or, if living, do, from vice, or any other cause, neglect to provide suitable employment for, or to exercise salutary control over, such child or children, shall have power, upon conviction thereof, to sentence such child, or children, to such house of reformation and employment, to be kept and governed according to law.]

SECT. 3. Nothing herein is to be construed to take away the right of appeal, in the cases aforesaid, from the police court to the municipal court aforesaid.

March 21, 1843.

[1847, 208.]

¹ Now municipal court.

1844. — CHAPTER 58.

AN ACT AUTHORIZING THE BOSTON AND ROXBURY MILL CORPORATION
TO EXTEND THEIR WHARF.*Be it enacted, etc.:*

The Boston and Roxbury Mill Corporation, proprietors of a wharf in the westerly part of the city of Boston, lying at the westerly end of Beacon street, and on the northerly side of said street and the western avenue, so called, and extending to, and bounding northerly on, the land now or formerly belonging to Jarvis Braman, are hereby authorized to extend and maintain their said wharf, into the harbor channel as far as the line established by an act entitled “an act concerning the harbor of Boston,” passed on the seventeenth day of March, in the year one thousand eight hundred and forty, and by an act entitled “an act in addition to an act concerning the harbor of Boston,” passed on the sixth day of March, in the year one thousand eight hundred and forty-one; and shall have the right and privilege of laying vessels at the end of said wharf, when extended, and of receiving dockage and wharfage therefor: *provided*, that so much of said wharf as shall be erected, under this act, north of a line drawn parallel to the north wall of said avenue, and two hundred feet distant therefrom, shall be built on piles; and that no building shall be placed on said wharf south of a line drawn parallel to the line of the north wall of said avenue, and twenty feet distant therefrom, and that this grant shall in no wise interfere with the legal rights of any person or persons whatever: *and provided*, also, that the authorities of the city of Boston shall have the right to extend Byron street, so called, to the channel over the land so made, and to lay, continue, and maintain, all necessary drains under the same.

To be extended
to the line estab-
lished by St.
1840, c. 35, and
St. 1841, c. 60.

Provided.

Extension of
Byron street.

March 6, 1844.

1845. — CHAPTER 236.

AN ACT CONCERNING STREETS AND WAYS IN THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. When any street or way, which now is, or hereafter shall be, opened in the city of Boston, over any private land, by the owners thereof, and dedicated to, or permitted to be used by, the public, before such street shall have been accepted and laid out according to law, it shall be the duty of the owners of the lots abutting thereon to grade such street or way at their own expense, in such manner as the safety and convenience of the public shall, in the opinion of the mayor and aldermen of said city, require; and if the owners of such abutting lots shall, after reasonable notice given by the said mayor and aldermen, neglect or refuse to grade such street or way in manner aforesaid, it shall be lawful for the said mayor and aldermen to cause the same to be graded as aforesaid, and the expense thereof shall, after due notice to the parties interested, be equitably assessed upon the owners of such abutting lots, by the said mayor and aldermen, in such proportions as they shall judge reasonable; and all assessments so made shall be a lien upon such abutting lands, in like manner as taxes are now a lien upon real estate: *provided*, always, that nothing contained in this act shall be construed to affect any agreements heretofore made respecting any such streets or ways as aforesaid, between such owners and said city: *provided*, also, that any such grading of any street or way by the mayor and aldermen as

Streets and
ways, being pri-
vate property,
but thrown open
to public use,
must be graded
by abutters, etc.

and, in case of
neglect, by may-
or, etc., at ex-
pense of abut-
ters, etc.

Provided.

aforesaid, shall not be construed to be an acceptance of such street or way by the city of Boston.

No streets, etc., to be less than thirty feet wide, except, etc.

SECT. 2. No street or way shall hereafter be opened as aforesaid in said city, of a less width than thirty feet, except with the consent of said mayor and aldermen, in writing, first had and obtained for that purpose.

When to take effect.

SECT. 3. This act shall take effect in thirty days from the passing thereof, unless the city council of said city shall, within that time, vote not to accept the same.¹

March 26, 1845.

1846. — CHAPTER 50.

AN ACT CONCERNING THE CITY OF BOSTON.

Be it enacted, etc.:

Ratification of acts done during absence of the mayor in 1845 and 1846.

SECTION 1. All and singular the acts and doings of the board of aldermen of the city of Boston, or of the chairman thereof, during the year one thousand eight hundred and forty-five, and one thousand eight hundred and forty-six, purporting to have been official acts and doings on behalf of said city, in the absence of the mayor thereof, and which might have been legally done and performed by said mayor alone, or by said mayor and aldermen together, whether in relation to any deeds, leases, agreements, indentures, or assurances, drafts on the city treasury, or any other matter or thing within the official powers and duties of the said mayor alone, or said mayor and aldermen together; and whether by concurrent vote with the common council or otherwise, shall be deemed to have, and shall have, the same force and effect, to all intents and purposes, as if said acts and doings had been done and performed by said mayor alone, or by said mayor and aldermen together.

When to take effect.

SECT. 2. This act shall take effect from and after its passage.

February 19, 1846.

1846. — CHAPTER 167.

AN ACT FOR SUPPLYING THE CITY OF BOSTON WITH PURE WATER.

Be it enacted, etc.:

City may obtain water from Long pond, etc., in Natick, etc.

SECTION 1. The city of Boston is hereby authorized, by and through the agency of three commissioners, to be appointed in the manner hereinafter provided, to take, hold, and convey to, into and through the said city, the water of Long Pond, so called, in the towns of Natick, Wayland, and Framingham, and the waters which may flow into and from the same, and any other ponds and streams within the distance of four miles from said Long Pond, and any water-rights connected therewith; and may also take and hold, by purchase or otherwise, any lands or real estate necessary for laying and maintaining aqueducts for conducting, discharging, disposing of, and distributing, water, and for forming reservoirs; and may also take and hold any land on and around the margin of said Long Pond, not exceeding five rods in width, measuring from the verge of said pond, when the same shall be raised to a level of eight feet above the floor of the flume at the outlet thereof, and on and around the said other ponds and streams, so far as may be necessary for the preservation and purity of the same, for the purpose of furnishing a supply of pure water for the said city of Boston. The city of Boston shall,

May take and hold land. 10 Cush. 295. 127 Mass. 69.

¹ This act took effect as herein provided, the city council having taken no action under this section.

within sixty days from the time they shall take any lands, or ponds, or streams of water, for the purposes of this act, file, in the office of the registry of deeds, for the county where they are situate, a description of the lands, ponds, or streams of water, so taken, as certain as is required in a common conveyance of lands, and a statement of the purpose for which taken, which said description and statement shall be signed by the said mayor.

The city to file a description of lands, ponds, or streams, taken.
100 Mass. 350.
120 Mass. 352.
126 Mass. 422.

SECT. 2. The said city may, by and through the same agency, make and build one or more permanent aqueducts, from any of the aforesaid water-sources, to, into, and through, the said city, and secure and maintain the same by any works suitable therefor; may connect the said water-sources with each other; may erect and maintain dams to raise and retain the waters therein; may make and maintain reservoirs within and without the said city; may make and establish such public hydrants, in such places as may, from time to time, be deemed proper, and prescribe the purposes for which they may be used, and may change or discontinue the same; may distribute the water throughout the city, and, for this purpose, may lay down pipes to any house or building in said city, the owner or owners thereof having notice and not objecting thereto; may regulate the use of the said water within and without the said city, and establish the prices or rents to be paid therefor. And the said city may, for the purposes aforesaid, carry and conduct any aqueducts, or other works, by them to be made and constructed, over or under any water-course, or any street, turnpike-road, railroad, highway, or other way, in such manner as not to obstruct or impede travel thereon; and may enter upon and dig up any such road, street, or way, for the purpose of laying down pipes beneath the surface thereof, and for maintaining and repairing the same; and, in general, may do any other acts and things necessary, or convenient and proper, for the purposes of this act.

May construct aqueducts, dams, and reservoirs, etc., and cross and dig up highways, etc.

SECT. 3. Three commissioners shall be appointed by the city council, who shall, during their continuance in office, execute and perform, and superintend and direct, the execution and performance of all the works, matters, and things, mentioned in the preceding sections, which are not otherwise specially provided for in this act; they shall be subject to such ordinances, rules, and regulations, in the execution of their said trust, as the city council may, from time to time, ordain and establish, not inconsistent with the provisions of this act and the laws of this commonwealth; they shall respectively hold their said offices for the term of three years next after their said appointment, unless the aqueducts and works aforesaid shall be sooner completed; but they, or either of them, after having had an opportunity to be heard in his or their defence, may be removed at any time, by a concurrent vote of two-thirds of each branch of the city council; and in case of a vacancy in the board of commissioners, by death, resignation, or removal, such vacancy shall be filled by the appointment of another commissioner, in manner aforesaid, who shall hold his said office for the residue of the said term of three years, with all the powers and subject to all the restrictions aforesaid. A major part of said commissioners shall be a quorum for the exercise of the powers and the performance of the duties of the said office; they shall, once in every six months, and whenever required by the city council, make and present in writing, a particular report and statement of all their acts and proceedings, and of the condition and progress of the works aforesaid.

Appointment, duties, etc., of commissioners.

SECT. 4. Before the appointment of the commissioners aforesaid, the city council shall establish and fix the salaries, or compensation, to be paid to the commissioners for their services; and the said salaries of the said commissioners, so established and fixed as afore-

Compensation.

said, shall not be reduced during their continuance, respectively, in said office.

Power to be exercised by the city, after the office of commissioners has ceased.

SECT. 5. Whenever the said office of commissioners shall cease, either by the expiration of the said term of three years from the original appointment, or by the completion of the aqueducts and works mentioned in the preceding sections of this act, all the rights, powers, and authority, given to the city of Boston by this act, shall be exercised by the said city, subject to all the duties, liabilities, and restrictions, herein contained, in such manner, and by such agents, officers, and servants, as the city council shall, from time to time, ordain, appoint, and direct.

Remedy of owners of lands, etc., in case of disagreement as to damages.
8 Cush. 274.
10 Cush. 285.
100 Mass. 350.
122 Mass. 305.
125 Mass. 544.
126 Mass. 422.
130 Mass. 339, 452.
133 Mass. 215, 367.

SECT. 6. The said city of Boston shall be liable to pay all damages that shall be sustained by any persons in their property, by the taking of any land, water, or water-rights, or by the constructing of any aqueducts, reservoirs, or other works, for the purposes of this act. And if the owner of any land, water, or water-rights, which shall be taken as aforesaid, or other person who shall sustain damages as aforesaid, shall not agree upon the damages to be paid therefor, he may apply, by petition, for the assessment of his damages, at any time within three years from the taking of said land, water, or water-rights, as aforesaid, and not afterwards, to the court of common pleas,¹ in the county in which the same are situate; such petition may be filed in the clerk's office of said court, in vacation or in term time, and the clerk shall thereupon issue a summons to the city of Boston, returnable, if issued in vacation, to the then next term of the said court, and if in term time, returnable on such day as the said court shall order, to appear and answer to the said petition; the said summons shall be served fourteen days, at least, before the return day thereof, by leaving a copy thereof, and of the said petition certified by the officer who shall serve the same, with the mayor or clerk of the said city; and the said court may, upon default or hearing of the said city, appoint three judicious and disinterested freeholders of this commonwealth, who shall, after reasonable notice to the parties, assess the damages, if any, which such petitioner may have sustained as aforesaid; and the award of the said freeholders, or of the major part of them, being returned into and accepted by the said court, shall be final, and judgment shall be rendered and execution issued thereof for the prevailing party, with costs, unless one of the said parties shall claim a trial by jury, as hereinafter provided.

Right of parties to trial, if dissatisfied with award.

SECT. 7. If either of the parties mentioned in the preceding section shall be dissatisfied with the amount of damages awarded as therein expressed, such party may, at the term at which such award was accepted, or the next term thereafter, claim, in writing, a trial in said court, and have a jury to hear and determine, at the bar of said court, all questions of fact relating to such damages, and to assess the amount thereof; and the verdict of such jury being accepted and recorded by the said court, shall be final and conclusive, and judgment shall be rendered and execution issued thereon; and cost shall be recovered by the said parties respectively, in the same manner as is provided by law, in regard to proceeding, relating to the laying out of highways.

Time for application for damages.

SECT. 8. No applications shall be made to the court, for the assessment of damages for the taking of any water-rights, until the water shall be actually withdrawn or diverted by the said city under the authority of this act; and any person or corporation, whose water-rights may be thus taken and affected, may make his application aforesaid, at any time within three years from the time when the waters shall be first actually withdrawn or diverted as aforesaid.

134 Mass. 438.

¹ Now superior court.

SECT. 9. For the purpose of defraying all the costs and expenses of such lands, estates, waters, and water-rights, as shall be taken, purchased, or held, for the purposes mentioned in this act, and of constructing all aqueducts and works necessary and proper, for the accomplishment of the said purposes, and all expenses incident thereto, the city council shall have authority to issue from time to time, notes, scrip, or certificates of debt, to be denominated, on the face thereof, "Boston water scrip" to an amount not exceeding, in the whole, the sum of three millions of dollars, bearing interest at a rate not exceeding the legal rate of interest in this commonwealth; and said interest shall be payable semi-annually, and the principal shall be payable at periods not more than forty years from the issuing of the said scrip, notes, or certificates, respectively. And the said city council may sell the same, or any part thereof, from time to time, at public or private sale, or pledge the same for money borrowed for the purposes aforesaid, on such terms and conditions as the said city council shall judge proper.

City council may issue scrip to the amount of \$3,000,000, bearing interest, etc., payable at dates, etc.
1848, 83.
1849, 187, § 1.

SECT. 10. In addition to the sum of three millions of dollars mentioned in the preceding section, the said city council may, whenever and so far as may be necessary, issue and dispose of notes, scrip, or certificates of debt, in the manner prescribed in the preceding section, to meet all payments of interest which may accrue upon any scrip by them issued: *provided, however*, that no scrip shall be issued for the payment of interest as aforesaid, after the expiration of two years from the completion of said aqueducts and other works; but payment of all interest that shall accrue after that time, shall be made from the net income, rents, and receipts, for the use of the water, if they shall be sufficient for that purpose; and if not, then the payment of the deficiency shall be otherwise provided for by the city council. All notes, scrip, and certificates of debt, to be issued as aforesaid, shall be signed by the treasurer and auditor, and countersigned by the mayor of the said city, and a record of all such notes, scrip, and certificates, shall be made and kept by the said treasurer and auditor respectively.

Scrip for payment of interest.

Proviso.

Form of scrip.

Records of the same.

SECT. 11. The city council shall, from time to time, regulate the price or rents for the use of the water, with the view to the payment, from the net income, rents, and receipts, therefor, not only of the semi-annual interest, but ultimately of the principal also, of the "Boston water scrip," so far as the same may be practicable and reasonable. And the said net surplus income, rents, and receipts, after deducting all expenses and charges of distribution, shall be set apart as a sinking-fund, and shall be appropriated for and towards the payment of the principal and interest of the said scrip; and shall, under the management, control, and direction, of the mayor, treasurer, and auditor, of the city, or the major part of them for the time being, who shall be trustees of the said fund, be applied solely to the use and purpose aforesaid, until the said scrip shall be fully paid and discharged. And the said trustees shall, whenever thereto required by the city council, render a just, true, and full, account to the said city council, of all their receipts, payments, and doings, under the provisions of this section.

City council to regulate the price of water.
1875, 80, § 1.

Appropriation of proceeds of water rents.

Amended by
1877, 5, § 1.

SECT. 12. At any time after the expiration of two years, from the completion of the works mentioned in the second section of this act, and before the reimbursement of the principal of the "Boston water scrip," herein before mentioned, if the surplus income and receipts for the use of the water distributed under the provisions of this act, at the price established by the city council, after deducting all expenses and charges of distribution, shall, for any two successive years, be insufficient to pay the accruing interest on the said scrip, then the supreme judicial court, on the petition of one hundred or more

Proceedings for increase of water rents.
1875, 80, § 1.

of the legal voters of the said city, praying that the said price may be raised and increased so far as may be necessary for the purpose of paying, from the said surplus income and receipts, the said accruing interest, and upon due notice of the pendency of such petition given to the said city in such manner as the said court shall order, may appoint three commissioners, who, upon due notice to the parties interested, may raise and increase the said price, if they shall judge proper, so far as may be necessary in their judgment, for the purpose aforesaid, and no farther. And the award of said commissioners, or the major part of them, being returned to the said court, at the then next term thereof for the county of Suffolk, and accepted by the said court, shall be binding and conclusive, for the term of three years next after the said acceptance, and until the price so fixed by the commissioners shall, after the expiration of said term, be changed or altered by the city council.

Proceeding for
the reduction of
water rents.

1875, 80, § 1.

SECT. 13. If the surplus income and receipts for the use of the water, distributed under the provisions of this act, at the price established by the city council, after deducting all expenses and charges of distribution, shall, for any two successive years, be more than sufficient to pay the accruing interest on the "Boston water scrip," herein before mentioned, then the supreme judicial court, on the petition of one hundred or more of the legal voters of the said city, who may deem the said price unreasonably high, and pray for a reduction thereof; and upon due notice of the pendency of said petition given to the said city in such manner as the said court shall order, may appoint three commissioners, who, upon due notice to the parties interested, may, if they shall judge proper, reduce the price established by the city council: *provided*, that such reduction shall not be so great that the surplus income and receipts aforesaid, will, in the judgment of the said commissioners, be thereafter insufficient for the payment of the said accruing interest. And the award of the said commissioners, or the major part of them, being returned and accepted as mentioned in the preceding section, shall be binding and conclusive, in the same manner, and to the same extent, as therein provided in regard to awards made pursuant to the provisions of that section. And the said court may, at their discretion, order the costs on such petitions, as are mentioned in this and the preceding section, and of the proceedings thereon, or any part thereof, to be paid by either of the said parties, and may enter judgment and issue execution therefor accordingly.

Costs on petitions.

Owner and occupant both liable for price of water, etc.

SECT. 14. The occupant of any tenement shall be liable for the payment of the price or rent for the use of the water in such tenement; and the owner thereof shall be also liable, if, on being notified of such use, he does not object thereto; and if any person or persons shall use any of the said water, either within or without the city, without the consent of the city, an action of trespass may be maintained against him or them, by the said city, for the recovery of damages therefor: *provided*, however, that this act shall not be so construed as to prevent the inhabitants of Natick, Framingham, Sherburne, and Wayland, from using so much of the water hereby granted as shall be necessary for extinguishing fires and for all ordinary household purposes, under such regulations of the said city council as may be essential for the preservation of the purity of the same.

Proviso.

Penalty for diverting or corrupting water.
1861, 220.
108 Mass. 219.
110 Mass. 216.
133 Mass. 215,
228.

SECT. 15. If any person or persons shall wantonly or maliciously divert the water, or any part thereof, of any of the ponds, streams, or water-sources, which shall be taken by the city pursuant to the provisions of this act, or shall corrupt the same or render it impure, or destroy or injure any dam, aqueduct, pipe, conduit, hydrant, machinery, or other property, held, owned, or used, by the said city, by the

authority and for the purposes of this act; every such person or persons shall forfeit and pay, to the said city, three times the amount of the damages that shall be assessed therefor, to be recovered by any proper action. And every such person or persons may, moreover, on indictment and conviction of either of the wanton and malicious acts aforesaid, be punished by fine, not exceeding one thousand dollars, and imprisonment not exceeding one year.

SECT. 16. The said city of Boston is hereby authorized to purchase and hold all the property, estates, rights, and privileges, of the Aqueduct Corporation, incorporated by an act passed February twenty-seventh, in the year one thousand seven hundred and ninety-five, and by any convenient mode may connect the same with their other works.

City may purchase property, etc., of the Jamaica Pond Aqueduct Corporation, etc.

SECT. 17. The mayor and aldermen of the city of Boston shall notify and warn the legal voters of the said city, to meet in their respective wards, on such day as the said mayor and aldermen shall direct, not exceeding thirty days from and after the passing of this act, for the purpose of giving their written votes upon the question, whether they will accept the same; and if a majority of the votes so given upon the question aforesaid, shall be in the negative, this act shall be null and void.

Act to be void if not accepted by majority of voters in wards within thirty days.

SECT. 18. This act shall take effect from and after its passage.

When to take effect.

March 30, 1846.

[1848, 33; 1849, 187, 201; 1850, 316; 1859, 184; 1861, 220; 1865, 181; 1869, 193, 447; 1871, 185; 1877, 5.]

1847. — CHAPTER 208.

AN ACT CONCERNING THE HOUSE FOR THE REFORMATION AND EMPLOYMENT OF JUVENILE OFFENDERS IN THE CITY OF BOSTON.

SECTION 1. The municipal or police court of said city, upon the complaint, under oath, of the mayor or any aldermen thereof, or of any of the directors of the house of industry, or of the said house of reformation and employment, or of the overseers of the poor of said city, that any minor, under the age of sixteen years, lives an idle and dissolute life, and that his parents are dead, or, if living, do, from vice or any other cause, neglect to provide suitable employment for, or to exercise salutary control over such minor, shall have power, upon conviction thereof, to sentence such minor to such house of reformation and employment, to be kept and governed according to law.

Municipal court, on complaint of mayor, etc., may sentence dissolute orphan minors under sixteen years of age to house of reformation.

SECT. 2. The second section of the twenty-second chapter of the laws passed in the year one thousand eight hundred and forty-three, is hereby repealed; saving all matters now pending, and the right of appeal, as provided in the third section of said chapter.

Repeal of St. 1843, c. 22, § 2.

April 21, 1847.

[1848, 22; P. S. 220, § 20.]

1847. — CHAPTER 234.

AN ACT TO ESTABLISH REGULATIONS CONCERNING THE HARBOR OF BOSTON.

Be it enacted, etc.:

SECTION 1. No vessel which shall cast anchor in the harbor of Boston, between India wharf and Gray's wharf, shall anchor within five hundred feet of the line described in the second section of an act entitled "an act to preserve the harbor of Boston, and to prevent encroach-

Anchorage to be only within certain limits.

1837, 229.

1877, 116.

Penalty after
notice.
1864, 178.

Trim of vessels
at wharves.
1848, 314, § 3.
P.S. 69, § 28.

Penalty.

Penalty for de-
positing stones,
etc., in said har-
bor.
1848, 314, § 2.

Regulations of
warps and lines.

Penalty.

City council may
annually appoint
harbor-master.

His duties and
authority.
1848, 314.

ments therein," passed on the nineteenth day of April, in the year one thousand eight hundred and thirty-seven; and no vessel which shall cast anchor between the easterly side of Lamson's wharf and the easterly side of Tuttle's wharf, at East Boston, shall anchor within five hundred feet of the line described in the fifth section of "an act concerning the harbor of Boston," passed the seventeenth day of March, in the year one thousand eight hundred and forty, unless for the purpose of hauling in, as soon as practicable, to some wharf in said harbor, or unless compelled to do so by reason of stress of weather, or unavoidable casualty; and, for every offence against either of the foregoing provisions, after having been notified thereof by the harbor-master, who may be appointed as hereinafter mentioned, or by any party aggrieved, the master, commander, or owners, of such vessel, shall be subject to a penalty not exceeding twenty-five dollars.

SECT. 2. The master, commander, or owners, of every vessel, shall, as soon as practicable after having hauled to the end of any wharf that extends to the channel in said harbor, cause her lower yards to be cockbilled, and her jib-boom to be rigged in, so that the said jib-boom may not annoy any other vessel or vessels going in or out of the adjoining docks; and the lower yards and jib-boom shall be kept so arranged while such vessel lies at the end of the wharf as aforesaid, and until she is preparing immediately to leave her berth; and for every offence against any of the provisions in this section, the master, commander, or owners, or either of them, of such vessel, shall be subject to a penalty not exceeding ten dollars.

SECT. 3. No person shall throw or deposit in said harbor, or any part thereof, any stones, gravel, ballast, cinders, ashes, dirt, mud, or other substances, which may, in any respect, tend to injure the navigation thereof; and whoever shall offend against the provisions of this section shall be subject to a penalty not exceeding fifty dollars.

SECT. 4. No warp or line shall be passed across the mouth of any slip, for the purpose of hauling a vessel by said slip, before the vessel shall be within one hundred feet of said slip, if the owners or occupants thereof object, unless the harbor-master, who may be appointed as hereinafter mentioned, shall have decided it to be necessary; and for every offence against this provision, the master, commander, or owners, of such vessel, shall be subjected to a penalty not exceeding five dollars.

SECT. 5.¹ The city council of the city of Boston may, if they shall deem it expedient, annually appoint, by concurrent ballot in each board, a harbor-master for the port of Boston, who shall hold his office for one year, and until another shall be appointed in his place, or until he shall be removed by said city council; and, before entering upon his office, he shall give bond to the said city, with sufficient sureties, to the satisfaction of the mayor and aldermen, in the penal sum of two thousand dollars, conditioned for the faithful discharge of the duties of said office; and, in case of the sickness or disability of the said harbor-master, he may appoint a deputy, subject to the approval of said mayor and aldermen, to perform his duties during such sickness or disability; and said harbor-master shall be allowed and paid quarterly, out of the city treasury, such salary for his services as said city council shall, from time to time, establish.

SECT. 6. It shall be the duty of the said harbor-master to enforce the execution of the several provisions of this act, and of all other laws of the commonwealth relating, in any way, to said harbor; and to prosecute all violations of such laws and ordinances, and to take all lawful measures to prevent the doing of any act by which the flow of the tides, or the force, direction, or depth, of the current into, out

¹ The harbor-master is now appointed by the mayor and aldermen. See St. 1862, c. 64.

of, or through the said harbor may, in any degree, be injuriously affected. And said harbor-master shall also have authority so to regulate the anchorage of vessels that, as far as may be practicable, ferry-boats may pass unobstructed, and the channel shall be kept clear from the wharves to Castle island.

SECT. 7. All said several penalties may be recovered by complaint before the police court of the city of Boston, or by indictment, for the use of the said city. Recovery of penalties.

SECT. 8. This act shall take effect on and after the first day of July next.

April 23, 1847.

[1837, 229; 1848, 314; 1862, 64; 1877, 116; 1882, 216; 1884, 173; P.S. 69, §§ 23-34.]

1848. — CHAPTER 33.

AN ACT IN ADDITION TO "AN ACT FOR SUPPLYING THE CITY OF BOSTON WITH PURE WATER."

Be it enacted, etc. :

Nothing in the ninth section of the act, to which this is an addition, shall be construed to prohibit the city council of the city of Boston, from making temporary loans for the purposes therein set forth, to be redeemed within five years by the "Boston water scrip;" *provided,* that the amount of said scrip shall in no case exceed the amount named in the said section. City council may make temporary loans, to be redeemed within five years by the "Boston water scrip." 1846, 167, § 9.

February 29, 1848.

[1846, 167.]

1848. — CHAPTER 308.

AN ACT RELATING TO BALLAST IN THE CITY OF BOSTON.

Be it enacted, etc. :

SECTION 1. The city council of the city of Boston are hereby authorized to establish any ordinances and regulations respecting the weighing and marking of lighters, and other vessels employed in the transportation of stones, gravel, sand, or other ballast, and for the inspection and weighing, such ballast within the city of Boston, including the appointment and compensation of weighers, markers, inspectors, or other officers necessary to carry such ordinances and regulations into effect as they may deem expedient, and may affix penalties for the breach thereof, not exceeding those provided in the thirty-first chapter of the revised statutes. Power of city council to regulate the taking of ballast. R.O. c. 44. Penalties.

SECT. 2. The adoption of any such ordinance, or regulations, shall supersede the provisions of the aforesaid thirty-first chapter of the revised statutes within said city, so far as the same shall be inconsistent with, or repugnant to, said provisions. P.S. 60.

May 10, 1848.

1848. — CHAPTER 314.

AN ACT IN ADDITION TO "AN ACT TO ESTABLISH REGULATIONS CONCERNING THE HARBOR OF BOSTON."

Be it enacted, etc. :

SECTION 1. The harbor-master authorized to be appointed by the fifth section of the act to which this is in addition, shall have authority to regulate the anchorage of all vessels in the upper harbor of Boston, Harbor-master to regulate anchorage of vessels in the

upper harbor of
Boston.
1847, 234, § 5.

Penalty for ob-
structing har-
bor-master.

Master or
owners liable
for certain vi-
olations com-
mitted on board
their vessels.
1847, 234, § 3.
Limitation in
former act re-
pealed.
1847, 234, § 2.
Concerning
anchor-watch
and lights at
night.

Penalty.

and, when necessary, to order the removal of such vessels, and to cause the same to be removed in obedience to such order at the expense of the master or owners thereof; and if any person shall obstruct said harbor-master in the performance of any of his duties, as prescribed by this act, or by the act to which this is in addition, or shall neglect or refuse to obey any lawful order made by said harbor-master, he shall be liable to a penalty, not exceeding fifty dollars, for each offence, to be recovered by indictment, for the use of the city of Boston.

SECT. 2. Whenever any person, on board of any vessel, shall violate the provisions of the third section of the act to which this is in addition, the master or owners of said vessel shall be liable to the penalty prescribed in said section, as well as the person so offending.

SECT. 3. The provisions of the second section of the act to which this is in addition shall apply to all the yards of vessels as well as the lower yards, anything in said section to the contrary notwithstanding.

SECT. 4. All vessels at anchor in the harbor of Boston shall keep an anchor-watch at all times, and shall keep a clear and distinct light, suspended at least six feet above the deck, during the night; and whenever the provisions of this section shall be violated on board any vessel, the master or owners shall be liable to a penalty of not more than twenty dollars, to be recovered in the manner provided in the act to which this is in addition, and shall be held liable to pay all damages that may be occasioned by such violation.

May 10, 1848.

[1847, 234; 1862, 64; P.S. 69, §§ 23-34; 1882, 216; 1884, 173.]

1849. — CHAPTER 106.

AN ACT RELATING TO CHELSEA-POINT BRIDGE.

Be it enacted, etc.:

May be pur-
chased by city
of Boston.

SECTION 1. The city of Boston is hereby authorized and empowered to purchase the franchise of Chelsea-point Bridge, with all the rights and property incident thereto.

Mayor and
aldermen au-
thorized to lay
out a highway
over a portion
of the bridge,
and a highway
to be laid out
over the other
portion.

SECT. 2. The mayor and aldermen of the city of Boston, as county commissioners therein, are hereby authorized and empowered to lay out a highway over so much of Chelsea-point bridge, and the tide waters thereat, as is within the city of Boston¹; and the commissioners appointed by the court of common pleas, holden at Boston, by the order of said court, dated the fifteenth day of March, in the year one thousand eight hundred and forty-eight, to perform the duties of county commissioners, as in said order specified, or those at any time hereafter holding the like authority, are hereby authorized and empowered to lay out a highway over so much of said Chelsea-point bridge, and the tide waters thereat, as is within the town of North Chelsea: *provided*, the assent of the proprietors of Chelsea-point bridge shall be first obtained.

Proviso, as to
assent of the
proprietors.
Highway au-
thorized over
certain tide
waters.

SECT. 3. The commissioners appointed by the court of common pleas, as aforesaid, or those who may hereafter be appointed to the like authority, are hereby authorized and empowered to lay out and construct a highway over the tide waters between the easterly shore of Pulling point, and the neck of land leading to Point Shirley, in North Chelsea, so as to form a continuous highway from East Boston to Point Shirley.

SECT. 4. This act shall take effect from and after its passage.

April 17, 1849.

[1835, 100.]

¹ So much of this bridge as is within the city was laid out as a highway July 1, 1860. See Statutes and Ordinances (ed. 1876), p. 72.

1849. — CHAPTER 109.

AN ACT RELATING TO CHELSEA FREE BRIDGE.¹*Be it enacted, etc. :*

SECTION 1. The mayor and aldermen of the city of Boston, as county commissioners therein, be, and hereby are, authorized and empowered to lay out and construct a highway over so much of Chelsea free bridge, and the tide waters thereat, as are within the city of Boston; and the county commissioners appointed by the court of common pleas, of the commonwealth of Massachusetts, holden at Boston, in and for the county of Suffolk, by the order of said court, dated the sixteenth day of October, in the year one thousand eight hundred and forty-eight, to perform the duties of county commissioners, as in said order specified, or those at any time hereafter holding the like or similar authority, be, and hereby are, authorized and empowered to lay out and construct a highway, over so much of Chelsea free bridge, and the tide waters thereat, as are within the town of Chelsea. The said bridge to be maintained with good and sufficient materials, and not less than twenty-five feet wide, with sufficient railings for the protection of passengers, and a good and sufficient draw, not less than twenty feet wide, with proper piers above and below said draw, for the accommodation of vessels passing through the same.

Highway to be laid out over Chelsea free bridge and the tide waters thereat.

Bridge, how to be maintained.

Draw.

SECT. 2. This act shall take effect from and after its passage.

April 17, 1849.

[1834, 130.]

1849. — CHAPTER 133.

AN ACT CONCERNING SIDEWALKS IN UNACCEPTED STREETS IN THE CITY OF BOSTON.

Be it enacted, etc. :

SECTION 1. When any street or way, which now is, or hereafter shall be, opened in the city of Boston, over any private land, by the owners thereof, and dedicated to, or permitted to be used by, the public, before such street shall have been accepted and laid out, according to law, it shall be the duty of the owners of lots abutting thereon, to construct convenient sidewalks on each side of such street or way, at their own expense, in such manner as the safety and convenience of the public shall, in the opinion of the mayor and aldermen of said city, require; and, if the owners of such abutting lots shall, after reasonable notice given by the said mayor and aldermen, neglect or refuse to construct said sidewalks in such street or way, in manner aforesaid, it shall be lawful for the said mayor and aldermen to cause the same to be constructed as aforesaid; and the expense thereof shall, after due notice to the parties interested, be equitably assessed upon the owners of such abutting lots, by the said mayor and aldermen, in such proportions as they shall judge reasonable; and all assessments so made shall be a lien upon such abutting lands, in like manner as taxes are now a lien upon real estate: *provided, always*, that nothing contained in this act, shall be construed to affect any agreement heretofore made respecting any such street or way, as aforesaid, between such owners and said city: *provided, also*, that any such constructing of sidewalks in any street or way, by the

Sidewalks, how to be constructed in streets over private land. 1850, 180.

Expenses.

On neglect or refusal mayor and aldermen to construct walk and assess on the abutters.

Proviso.

Proviso.

¹ Now called Chelsea-street bridge. See Statutes and Ordinances (ed. 1876), pp. 73, 74.

mayor and aldermen, as aforesaid, shall not be construed to be an acceptance of such street or way by the city of Boston.

City council may vote not to accept this act.

SECT. 2. This act shall not take effect if, within thirty days from the passage thereof, the city council of said city shall vote not to accept the same.

April 23, 1849.

1849. — CHAPTER 150.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO ESTABLISH A CEMETERY.¹

Be it enacted, etc. :

City of Boston may establish a cemetery in any town in the commonwealth, with its consent. R.O., c. 42.

The city of Boston is hereby authorized to purchase and hold land, for a public cemetery, in any town in this commonwealth, and to make and establish all suitable rules, orders, and regulations, for the interment of the dead therein, to the same extent that the said city of Boston is now authorized to make such rules, orders, and regulations, for the interment of the dead, within the limits of the said city : *provided*, that the consent of any town, in which the said cemetery is proposed to be located, shall first be obtained for the purpose.

April 26, 1849.

[1872, 197.]

1849. — CHAPTER 187.

AN ACT IN ADDITION TO "AN ACT FOR SUPPLYING THE CITY OF BOSTON WITH PURE WATER."

Be it enacted, etc. :

Additional notes, scrip, or certificates of debt, may be issued by city council of Boston. 1846, 167.

SECTION 1. In addition to the notes, scrip, or certificates of debt, authorized to be issued by the ninth section of the act entitled "an act for supplying the city of Boston with pure water," passed on the thirtieth day of March, in the year one thousand eight hundred and forty-six, being chapter one hundred and sixty-seven of the acts of that year, the city council of the city of Boston are hereby authorized to issue, from time to time, notes, scrip, or certificates of debt, to be denominated, on the face thereof, "Boston water scrip," to an amount not exceeding, in the whole, the further sum of one million five hundred thousand dollars, for the same purposes, and in the same manner, and upon the terms and conditions specified in said section.

Of proceedings for damages done to individuals, how prosecuted. 1846, 167, §§ 6, 8.

SECT. 2. Whenever any damages shall have been sustained by any persons in their property, by the taking of any land, water, or water-rights, or by the constructing of any aqueducts, reservoirs, or other works, for the purposes of this act, and of the act to which this is in addition, and such persons shall neglect to institute proceedings against the city of Boston, according to the provisions of the said act, for the space of five months, it shall be lawful for the city of Boston to commence such proceedings, which shall go on, and be determined, in the same manner as if commenced by the persons who shall have sustained such damage ; and, if such persons, on receiving due notice, shall not come in and prosecute the proceedings so instituted, judgment shall be entered against them, and they shall be forever barred from recovering any damages under said act.

— how barred.

Water of Long pond may be conveyed to East Boston through Charlestown and Chelsea.

SECT. 3. The city of Boston is hereby authorized to convey the water of Long pond to, into, and through, that part of Boston called East Boston, by laying their aqueduct, or water pipes, through the city of Charlestown and town of Chelsea ; and, for that purpose, may

¹ Under authority of this act Mount Hope Cemetery was established.

have all the rights and privileges, and shall be subject to all the liabilities, mentioned in the act to which this is in addition. And the said city of Boston may make any suitable structures for the purpose of conveying the said water over or under the tide waters within the jurisdiction of this commonwealth: *provided*, that such structures shall be approved of by a commissioner, to be appointed for that purpose by the governor and council, and to be compensated by the city of Boston: *provided, further*, that the authority granted by this section shall not be exercised without the consent of the city council of said city first had and obtained.

SECT. 4. This act shall not take effect unless accepted by the city council of the city of Boston.¹

May 1, 1849.

[1846, 167; 1848, 33; 1851, 121.]

1849. — CHAPTER 201.

AN ACT AUTHORIZING THE EASTERN RAILROAD COMPANY TO EXTEND THEIR ROAD.

Be it enacted, etc.:

SECTION 1. The Eastern Railroad Company are hereby authorized to locate, construct, and complete, an extension of their railroad, with one or more tracks, from some convenient point in their railroad, in North Chelsea, to the Salem turnpike, at or near the same point at which the grand junction and depot company are authorized to cross said turnpike; thence crossing Island End river, by a suitable bridge and draw, and crossing the dam and dyke at such a grade and in such a manner, as not to impair the same, to a point in Malden, westerly of the United States marine hospital, near the junction of said Island End river with Mystic river; thence crossing said Mystic river, with the necessary draws in the bridge, at the channels of said river, of not less than forty feet space, to a point in the city of Charlestown, westerly of the Salem turnpike; thence, by the most convenient line, through said city of Charlestown, to Thompson's wharf, in said Charlestown; thence crossing Charles river to the wharf owned or occupied by the gas company in Boston, below Charles-river bridge, making and maintaining a suitable and convenient draw in the bridge, at the channel, to Commercial street, in Boston: *provided*, that no bridge shall be constructed over any of the rivers aforesaid, exceeding thirty feet in width; and the same shall be constructed under the direction of a commissioner, to be appointed by the governor and council, and paid by the Eastern Railroad Company; and any bridge, so constructed, shall be deemed to be the limit of the location across said rivers.

SECT. 2. Said company shall provide such effectual security against any danger to the travel over Charles-river bridge, as the governor and council may, from time to time, require.

SECT. 3. The mayor and aldermen of the city of Charlestown, for the time being, may regulate the rate of speed at which the engines and trains may pass over such portions of said railroad as may cross the streets of said city at grade.

SECT. 4. No stone, gravel, or other building materials, shall be taken by said company from the lands of the Winnisimmet Company, without the consent of said company, excepting only the land, over or upon which said railroad shall be actually located, as aforesaid. And said company, and other proprietors of the marsh within said

¹ Accepted by city council May 28, 1849.

Of streets and ways, divided by railroad.

dam on Island End river, shall have the right to build and maintain continuous streets and ways, connecting their estates divided by said railroad, and cross, and recross, the same, over, under, or on a level with, it, where it divides their said estates, or separates them from Island End river, as they shall find most convenient, not obstructing the locomotives and cars running on the said railroad, as allowed in the acts heretofore passed in relation thereto.

This act to be accepted by the stockholders.
Location and completion.

SECT. 5. This act shall be void, unless the same shall be accepted by the stockholders of said company, at a meeting of the same, called for the purpose, and unless the road shall be located within two years from the passage of this act; and unless the road shall be completed within two years from the time said location shall be filed.

New stock.

SECT. 6. For the purposes of this act, said Eastern Railroad Company may create new stock, to an amount not exceeding five hundred thousand dollars: *provided*, that no shares in the capital stock hereby authorized, shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares in the original capital stock of said corporation.

Of water pipes laid by city of Boston to East Boston.

SECT. 7. It shall be lawful for the city of Boston, under the direction of the commissioner aforesaid, to lay and construct their water pipes under, or by the side of said bridges, for the purpose of conveying water into and through East Boston, without compensation: *provided, however*, that said pipes shall be so laid, maintained, and repaired, as not to retard, or in any manner obstruct, the regular and convenient use of said bridges, for all the uses of said railroad company.

Proviso.

Grand Junction Railroad and Depot Company may use this road.

SECT. 8. The Grand Junction Railroad and Depot Company may enter upon and use the road, or any part thereof, that may be constructed by said Eastern Railroad Company, within the limits herein chartered, according to the provisions of law.

May 2, 1849.

1849. — CHAPTER 243.

AN ACT TO INCORPORATE THE WILLIAMS MARKET.

Be it enacted, etc.:

Corporators.

SECTION 1. Henry Williams, William H. Guild, and George H. Sweetser, their associates and successors, are hereby made a corporation, by the name of the Williams Market, for the purpose of erecting and managing a market for the sale and storage of country produce, and other merchandise, to be located in or near Dover street, in the southerly section of the city of Boston, with all the powers and privileges, and subject to all the duties, liabilities, and restrictions, set forth in the forty-fourth chapter of the revised statutes: *provided*, that nothing contained in this act shall be construed to authorize said corporation to engage in buying or selling produce or merchandise of any description.

For a market, in Boston.

Powers and duties.

Proviso.

Estate.

Value of shares.

City government may make regulations for the market.

City of Boston may purchase the market, etc., within five years.

SECT. 2. Said corporation may hold real and personal estate, for the purpose aforesaid, not exceeding in amount one hundred thousand dollars: *provided*, that no shares in the capital stock of said corporation shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued.

SECT. 3. The city of Boston may, by its city council, or by any person or body to whom said council shall delegate its power, make and enforce suitable and proper police regulations, in and around said market and its appurtenances.

SECT. 4. The city of Boston may, at any time within five years from the passage of this act, purchase of said corporation the said market, and all the franchise, property, rights, and privileges, of said

corporation, or paying therefor the amount expended in erecting said market, with interest thereon, at the rate of ten per centum per annum, deducting therefrom all sums that shall have been received by the members of said corporation, as dividends of income or profits, and also the amount of all reserved profits possessed by the corporation at the time of said purchase; and whenever the city of Boston shall have determined to purchase said market, the directors of said corporation shall, upon reasonable notice, make out a statement of the amount to be paid according to the foregoing provisions, and shall exhibit their books and papers in verification of said statement, and upon the payment, by said city of Boston, of the sum which shall be found to be payable, as herein before provided, said corporation shall make, execute, and deliver, all such deeds, conveyances, and assurances, as may be necessary to invest, in said city, the said market, and all the franchise, property, rights, and privileges, of said corporation.

SECT. 5. This act shall take effect from and after its passage, and shall be void unless said market shall be located and built within three years thereafter.

Conditions.

Market to be built within three years.

May 2, 1849.

1850. — CHAPTER 180.

AN ACT CONCERNING STREETS AND PRIVATE WAYS IN THE CITY OF CHARLESTOWN.

Be it enacted, etc. :

SECTION 1. When any street or way shall hereafter be opened in the city of Charlestown, over any private land, by the owners thereof, and dedicated to or permitted to be used by the public, before such street or way shall have been accepted and laid out according to law, it shall be the duty of the owners of the lots abutting thereon, to grade such street or way, at their own expense, in such manner as the safety and convenience of the public shall, in the opinion of the city council of said city, require. And if the owners of such abutting lots, shall, after reasonable notice by the city council, neglect or refuse to grade such street or way in manner aforesaid, it shall be lawful for the city council to cause the same to be graded aforesaid; and the expense thereof shall, after due notice to the parties interested, be equitably assessed upon the owners of such abutting lots, by the city council, in such proportions as they shall judge reasonable, and all assessments so made shall be a lien upon such abutting land in like manner as taxes are now a lien upon real estate.

Abutters to grade streets or ways given to public use.

1849, 183.

Proceedings in case of neglect or refusal.

SECT. 2. No street or way shall hereafter be opened, as aforesaid, in said city, of a less width than thirty feet, except with the consent of the mayor and aldermen of said city, in writing, first had and obtained for that purpose.

No street or way to be less than thirty feet wide.

SECT. 3. Whenever any person shall intend to build upon any private street or way, in said city, he shall, before commencing to build, give to the mayor and aldermen of said city due notice, in writing, of such intention.

Any one intending to build on a private way to give notice, etc.

April 9, 1850.

1850. — CHAPTER 262.

AN ACT RELATING TO THE FIRE DEPARTMENT OF THE CITY OF BOSTON.

Be it enacted, etc. :

SECTION 1. The city council of the city of Boston may establish a fire department for said city, to consist of so many engineers and

Power of city council. R.O., c. 21.

- other officers, and so many enginemen and other members, as the city council, by ordinance, shall from time to time prescribe; and said city council shall have authority to make such provisions in regard to the time and mode of appointment, and the occasion and mode of removal, of either such officers or members, to make such requisitions in respect to their qualifications and period of service, to define their office and duties, to fix and pay such compensation for their services, and, in general, to make such regulations in regard to their conduct and government, and to the management and conduct of fires, and persons attending at fires, subject to the penalties provided for the breach of the city by-laws, as they shall deem expedient: *provided*, that the appointment of enginemen, hosemen, and hook-and-ladder men, shall be made by the mayor and aldermen exclusively.
- Compensations, etc.** 1873, 874, § 2.
- Delegation of power.** SECT. 2. The powers and duties mentioned in the preceding section, or any of them, may be exercised and carried into effect by the said city council, in any manner which they may prescribe, and through the agency of any persons, or any board or boards, to whom they may delegate the same.
- Powers of engineers, etc., of the fire department.** 104 Mass. 87. SECT. 3. The engineers or other officers of the department, so appointed as aforesaid, shall have the same authority, in regard to the prevention and extinguishment of fires, and the performance of the other offices and duties now incumbent upon firewards, as are now conferred upon firewards by the revised statutes, or the special acts relating to the city of Boston, now in force. They shall also have authority, in compliance with any ordinance of said city, to make an examination of places where shavings and other combustible materials are collected or deposited, and to require the removal of such materials, or the adoption of suitable safeguards against fire. And said city council are hereby authorized to make suitable ordinances upon this latter subject-matter, under the penalties enacted in the city charter.
- Exemption of officers and members.** SECT. 4. All officers and members of the fire department shall be exempted from military duty, or from serving as jurors or constables, during the time of their employment in said department.
- Relief for bodily injury.** SECT. 5. The city council aforesaid are hereby authorized, whenever and as often as they shall deem it expedient, to appropriate any sum or sums of money, in the way that may be judged by said council most advisable, for the relief or indemnity of any officer or member of the fire department who may sustain corporal injury, or contract sickness in the discharge of his duty, or consequent thereon.
- Repeal of former acts.** SECT. 6. The act entitled "an act to authorize the mayor and aldermen of the city of Boston to increase the number of enginemen in certain cases," passed on the thirteenth day of January, in the year eighteen hundred and twenty-three; the act entitled "an act authorizing the appointment of firemen in the town of Boston," passed February seventh, in the year eighteen hundred and twenty; the act entitled "an act establishing a fire department in the city of Boston," passed June eighteenth, in the year eighteen hundred and twenty-five; the act entitled "an act in addition to an act entitled 'an act establishing a fire department in the city of Boston,'" passed March second, in the year eighteen hundred and twenty-seven; the act entitled "an act in addition to an act establishing a fire department in the city of Boston," passed March third, in the year eighteen hundred and twenty-nine; and the act entitled "an act further in addition to an act establishing a fire department in the city of Boston," passed June twenty-first, in the year eighteen hundred and thirty-one, are hereby repealed.
- When to take effect.** SECT. 7. This act shall take effect from and after its passage;

but it shall not operate upon existing laws and ordinances, relating to the fire department of the city of Boston, until it shall have been adopted by the city council of said city.¹

May 1, 1850.

[1873, 374; 1880, 107; 1881, 22.]

1850. — CHAPTER 316.

AN ACT IN ADDITION TO "AN ACT FOR SUPPLYING THE CITY OF BOSTON WITH PURE WATER."

Be it enacted, etc.:

SECTION 1. In every case of a petition to the court of common pleas, by any person, for the assessment of damages, as provided in the sixth, seventh, and eighth sections of the act to which this is in addition, the city of Boston, by any of its officers, may tender to the complainant or his attorney, any sum that it shall think proper, or may bring the same into court, to be paid to the complainant for the damages claimed in his petition; and if the complainant shall not accept the same, with his costs up to that time, but shall proceed in the suit, he shall be entitled to his costs up to the time of the tender, or such payment into court, and not afterwards, and the said city shall be entitled to recover its costs afterwards, unless the complainant shall recover greater damages than were so offered.

Of tender of compensation for damages. 1846, 167.

SECT. 2. This act shall take effect from and after its passage.

May 3, 1850.

[1846, 167; 1849, 187.]

1851. — CHAPTER 121.

AN ACT IN FURTHER ADDITION TO "AN ACT FOR SUPPLYING THE CITY OF BOSTON WITH PURE WATER."

Be it enacted, etc.:

The control granted to the city of Boston over tide waters within the jurisdiction of this commonwealth, by the third section of an act in addition to an act for supplying the city of Boston with pure water, passed on the first day of May, in the year one thousand eight hundred and forty-nine, shall be restricted to the line now occupied by them for the purpose specified in the third section.

Restriction. 1849, 187.

May 7, 1851.

[1846, 167; 1849, 187.]

1851. — CHAPTER 243.

AN ACT IN ADDITION TO "AN ACT TO ESTABLISH THE BOSTON LUNATIC HOSPITAL."

Be it enacted, etc.:

SECTION 1. The third section of the one hundred and thirty-first chapter of the acts of the year one thousand eight hundred and thirty-nine, being an act entitled "an act to establish the Boston lunatic hospital," is so amended that the city council of the city of Boston shall have power to pass such ordinances as they may deem expedient, for conducting, in a proper manner, the business of that institution, and for appointing such officers as, in their opinion, may be necessary.

City council of Boston may pass ordinances, and appoint officers.

R.O. c. 33, §§ 2, 3.

¹ Adopted June 4, 1850.

Repeal.

SECT. 2. The second section of the said chapter is hereby repealed.

SECT. 3. This act shall take effect from, and after its passage.

May 23, 1851.

[1839, 131; 1840, 79; 1857, 35, 281, 302.]

1852. — CHAPTER 165.

AN ACT CONCERNING THE BOSTON PORT SOCIETY.

Be it enacted, etc.:

Real estate exempted from taxation.

From and after the passage of this act, the real estate now owned by the Boston Port Society shall be exempt from taxation so long as the income shall be applied in furtherance and support of the charitable uses and purposes of improving the moral and religious condition of seamen in the city of Boston and its vicinity.

April 30, 1852.

1852. — CHAPTER 266.

AN ACT IN RELATION TO THE CITY OF BOSTON.

Be it enacted, etc.:

How streets, lanes, etc., are to be laid out, altered, etc. Superseded by 1870, 337, § 3.

SECTION 3. Whenever the mayor and aldermen of the city of Boston shall adjudge that the public safety and convenience require that any street, lane, or alley, in the said city, shall be laid out, altered, or discontinued, they shall make and record an estimate of the expense thereof, and, if such estimate shall exceed the sum of five thousand dollars, or, if such estimate, with the estimates of any previous alteration or discontinuance of any part of such street, lane, or alley, during the municipal year, shall exceed the sum of five thousand dollars, the order of such laying out, alteration, or discontinuance, together with an estimate of the expense thereof, shall be sent to the common council for its concurrence or rejection; and such order shall not take effect or be in force until the common council shall concur therein.

Proceedings when public buildings are to be erected. 1830, 128.

SECT. 4. No erection, alteration, or repair, of any court-house, jail, house of correction, fire-proof office, or any other building, for the purposes of the county of Suffolk, shall be made by the mayor and aldermen of the said city, except as herein provided, to wit: whenever the mayor and aldermen shall by vote declare that such erection, alteration, or repair, is necessary or expedient, they shall make and record an estimate of the expense thereof, and, if such estimate shall exceed the sum of five thousand dollars, a copy of the said vote and estimate shall be sent to the common council for its concurrence, rejection, or amendment; and all acts or parts of acts inconsistent with this act are repealed.

Not to take effect till accepted by legal voters.

SECT. 5. The first four sections of this act shall not go into effect unless they be approved by a majority of the legal voters of the city of Boston, voting thereon, severally, by yea and nay ballot, in their respective wards, at the annual election of state officers in November next; and the mayor and aldermen of the said city shall insert, in the warrant for the aforesaid election, an article submitting the aforesaid question to the decision of the said legal voters of the city of Boston.¹

May 20, 1852.

[1880, 128.]

¹ Sections one and two were rejected, and sections three and four accepted, November 8, 1852.

1853. — CHAPTER 38.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO FOUND AND MAINTAIN
A PUBLIC LIBRARY.*Be it enacted, etc.:*

SECTION 1. The city of Boston is hereby authorized to found and maintain a public library, and to make such expenditures, establish such regulations, fix such penalties for the breach thereof, and do all such acts and things as may be deemed necessary and proper to that end; and the powers hereinbefore named may be exercised by the city council of the said city, in any manner in which they may prescribe, and by the agency of any persons to whom they may delegate the same: *provided, however,* that the expenditures hereinbefore mentioned shall not exceed the sum of one hundred and fifty thousand dollars, within four years from the first day of January, in the year eighteen hundred and fifty-three; [nor the sum of ten thousand dollars in any one year after that time.¹]

City council may make expenditures and regulations.

May appoint an agent.

Proviso.

SECT. 2. The fifty-second chapter of the statutes of the year eighteen hundred and forty-eight, entitled "an act to authorize the city of Boston to establish a public library," is hereby repealed.

Former act repealed.

SECT. 3. This act shall take effect from and after its acceptance by the city council of the said city of Boston.²

When to take effect.

March 12, 1853.

[1857, 11; 1878, 114; 1880, 222; 1882, 148; 1883, 141.]

1853. — CHAPTER 131.

AN ACT TO INCORPORATE THE GERRISH MARKET.

Be it enacted, etc.:

SECTION 1. George W. Gerrish, Charles L. Hancock, George Meacham, Robert Farley, their associates and successors, are hereby made a corporation, by the name of the Gerrish market, for the purpose of owning and managing a market for the sale and storage of country produce and other merchandise, now located in Sudbury street, between Portland and Friend streets, in the northerly section of the city of Boston, with all the powers and privileges, and subject to all the duties, liabilities, and restrictions, set forth in the forty-fourth chapter of the revised statutes: *provided,* that nothing contained in this act shall be construed to authorize said corporation to engage in buying or selling produce or merchandise of any description.

Corporators.

To own and manage a market in Boston.

SECT. 2. Said corporation may hold real and personal estate for the purpose aforesaid, not exceeding in amount three hundred thousand dollars: *provided,* that no shares in the capital stock of said corporation, shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued.

SECT. 3. The city of Boston may, by its city council, or by any person or body to whom said council shall delegate its power, make and enforce suitable and proper police regulations, in and around said market and its appurtenances.

City council to make and enforce police regulations.

SECT. 4. This act shall take effect from and after its passage.

April 8, 1853.

¹ Repealed by St. 1857, c. 11.² Accepted April 14, 1853.

1853. — CHAPTER 141.

AN ACT CONCERNING STREETS AND WAYS IN THE CITY OF ROXBURY.

Be it enacted, etc. :

Abutters to
grade streets or
ways given to
public use.

Proceedings in
case of neglect
or refusal.

Proviso.

Width of streets.

SECTION 1. When any street or way, which now is, or hereafter shall be, opened in the city of Roxbury, over any private land by the owners thereof, and dedicated to, or permitted to be used by, the public, before such street shall have been accepted and laid out according to law, it shall be the duty of the owners of the lots abutting thereon, to grade such street or way at their own expense, in such manner as the safety and convenience of the public shall, in the opinion of the mayor and aldermen of said city, require, and if the owners of such abutting lots shall, after reasonable notice given by the said mayor and aldermen, neglect or refuse to grade such street or way in manner aforesaid, or to close the same from the public, if the same shall not have been dedicated to the public use, it shall be lawful for the said mayor and aldermen to cause the same to be graded as aforesaid, and the expense thereof shall, after due notice to the parties interested, be equitably assessed upon the owners of such abutting lots, by the said mayor and aldermen, in such proportions as they shall judge reasonable; and all assessments so made shall be a lien upon such abutting lands, in like manner as taxes are now a lien upon real estate: *provided, always*, that nothing contained in this act shall be construed to affect any agreements heretofore made respecting any such streets or ways as aforesaid, between such owners and said city: *provided, also*, that any such grading of any street or way, by the mayor and aldermen aforesaid, shall not be construed to be an acceptance of such street or way by the city of Roxbury.

SECT. 2. No street or way shall hereafter be opened as aforesaid in said city, of a less width than thirty feet, except with the consent of said mayor and aldermen in writing first had and obtained for that purpose.

SECT. 3. This act shall take effect in thirty days from the passing thereof, unless the city council of said city shall within that time vote not to accept the same.¹

April 12, 1853.

1853. — CHAPTER 154.

AN ACT REGULATING THE STORAGE, SAFE-KEEPING, AND SALE OF FIREWORKS IN THE CITY OF BOSTON.

Be it enacted, etc. :

Chief engineer
may license to
sell fireworks,
etc.
R.O., c. 45.

Proviso.

SECTION 1. It shall not be lawful for any person or persons to keep or sell any fireworks within the city of Boston, in any quantity, without first having obtained from the chief engineer of the fire department of said city a license therefor, signed by the chief engineer or by the secretary of the board of engineers, on which shall be written or printed a copy of the rules and regulations by them established, relative to the keeping, selling, or storage, of fireworks within said city; and every such license shall be in force until the first day of May next ensuing the date thereof, unless sooner annulled by the board of engineers, and no longer; but such license may, prior to the expiration of that term, be renewed by the chief engineer or the said secretary, from year to year, by indorsement thereon: *provided*,

¹ This act took effect as provided in section three, the city council of Roxbury having taken no action thereon.

always, that the board of engineers may rescind any such license, if in their opinion the person or persons have disobeyed the law, or infringed on any rules or regulations established by the board of engineers; and every person who receives a license to sell fireworks, as aforesaid, shall pay for the same the sum of one dollar, and the same sum for the renewal thereof, and all such licenses shall expire on the first day of May, annually, and all moneys received for licenses shall be paid to the board of engineers, for the purpose of defraying the expenses of carrying this act into execution.

Licenses to expire on the first day of May annually.

SECT. 2. Any person or persons who have for sale or keep in possession any fireworks within the city of Boston, contrary to the rules and regulations established by the board of engineers herein mentioned, or who shall sell any fireworks in said city without first having obtained from the chief engineer, or his secretary, a license as aforesaid, shall forfeit a sum not less than fifteen not more than fifty dollars for each offence.

Penalty for selling without license.

SECT. 3. This act shall take effect from and after its passage.

April 14, 1858.

[1878, 45.]

1853. — CHAPTER 255.

AN ACT TO INCORPORATE THE MOUNT WASHINGTON AVENUE CORPORATION.

Be it enacted, etc.:

SECTION 1. Benjamin T. Reed, Deming Jarves, and Eben Jones, their associates and successors, are hereby made a corporation, by the name of the Mount Washington Avenue Corporation, with all the powers and privileges, and subject to all the duties, liabilities, and restrictions, set forth in the forty-fourth chapter of the revised statutes.

Corporators.

SECT. 2. The said corporation may construct and maintain a pile bridge, not exceeding seventy feet in width, commencing at some point to be selected between the wharves known as Wales's wharf and Foundry wharf, on Sea street, in Boston, and extending from the point selected across Fore Point channel to the harbor line established by "an act concerning the harbor of Boston," passed on the seventeenth day of March, in the year one thousand eight hundred and forty, and not more than fifteen hundred feet northerly from the southerly angle of said line, with a suitable draw and draw piers for the accommodation of vessels passing through the said bridge, subject to be altered and widened at the expense of the said corporation and their assigns, as the legislature may, from time to time, require.

May construct a pile bridge.

With draw and draw-piers.

SECT. 3. The said corporation may purchase, or otherwise enter upon and take, any land necessary for the purpose, and may make a street or avenue, not exceeding seventy feet in width, from the westerly termination of said bridge to Sea street; and, if the corporation are not able to agree with the owners of such land, then the actual damage shall be assessed and paid to the owners in the manner provided by the laws of this commonwealth, in the case of laying out or widening streets in the city of Boston.

May purchase or take land.

SECT. 4. The said corporation may construct and maintain a solid avenue, not exceeding eighty feet in width from the easterly termination of the said bridge, over the flats of the shore owners, within the line of private rights and in a line parallel with West Broadway, to some point in I street, continued in South Boston, and

May construct a solid avenue with draws.

thence easterly to the uplands owned by the city of Boston; and the said avenue shall be provided with such convenient draws and sluiceways as may be deemed necessary by the commissioners hereinafter named; but nothing in this act contained shall authorize the filling up of the dock near Dorchester street, laid out by agreement recorded in Suffolk registry of deeds, liber two hundred and thirty, folio one hundred and seven.

Land damages,
how settled.

SECT. 5. The said corporation may purchase, or otherwise enter upon and take, any land or flats necessary for the purpose of constructing the avenue authorized by the fourth section of this act; and, if they shall not be able to obtain such land by any agreement with the owner or owners thereof, then the actual damage shall be assessed and paid to the owners, in the manner provided by the laws of this commonwealth, in the case of laying out or widening streets in the city of Boston.

Corporation to
give bonds
before taking
land.

SECT. 6. The said corporation shall, before proceeding, under this act, to take the land or flats of other persons, give bonds, with satisfactory sureties, to the city of Boston, for the use of the owners of lands so taken, that they will pay all such damages as may be assessed against them, as provided for in the preceding sections.

City of Boston
may hold the
rights, etc.

SECT. 7. The city of Boston may, by vote of the mayor and aldermen, and upon such terms as may be agreed upon between them and the said corporation, take and hold all the rights and powers granted by this act, and construct and maintain, or maintain after they are constructed, the street, bridge, and avenue, herein authorized: *provided*, that the said city, in case of such transfer, shall be subject to the same duties, as are imposed by this act upon the corporation aforesaid; and, before such transfer, the said city shall not be liable for damages by reason of any defect or want of repair therein.¹

Proviso.

Corporation to
give bond to
raise draw.

SECT. 8. Before commencing the construction of the bridge aforesaid, the said corporation shall give bonds, with satisfactory sureties, to the attorney-general of this commonwealth, in the penal sum of ten thousand dollars, that the draw in the same shall be properly raised for the passage of vessels by night and by day, until such time as the said bridge may be transferred to, and accepted by, the city of Boston.

Corporation
may lay railroad
track.

SECT. 9. The said corporation may, with the consent and under the direction of the mayor and aldermen of the city of Boston, construct and maintain a double railroad track through the whole or any part of the said avenue, bridge, and street, to Sea street, and thence to the Boston and Worcester railroad, which track shall be used for horse-power only, and not for steam-engines, and may be connected with and worked by the Boston and Worcester railroad corporation, and by this corporation, upon such terms as may be agreed upon between them.

Avenue to be
toll free.

SECT. 10. The said avenue, bridge, and street, shall be open to the public for travel, free of toll; but the railroad tracks provided for in this act shall be used only with the consent of this corporation, or those who may succeed to their rights in the same, and upon such terms as may be agreed upon.

May hold and
convey estate.

SECT. 11. The said corporation may purchase, hold, and convey, such real and personal property as may be necessary for the purposes authorized by this act.

¹ On August 4, 1854, the city entered into a contract with the Mount Washington Avenue Corporation, for the construction of the avenue from Granite street to I street, and giving to the city authority to construct the bridge, street, and avenue, described in the charter, by such parties as the city might select. On August 7, 1854, the city executed a contract with the Boston Wharf Company for the construction of said bridge, street, and avenue, releasing Granite street to the city, and giving the city rights of drainage to the sea. See Statutes and Ordinances (ed. 1876), pp. 70, 71.

SECT. 12. The Bay State Iron Company may extend their present railroad tracks to their own premises in South Boston, across the avenue of this corporation. Bay State Iron Company may cross avenue.

SECT. 13. The said street, bridge, and avenue, with all their respective abutments, draws and draw piers, and sluiceways, shall be constructed under the direction, and to the satisfaction, of a commissioner, to be appointed by the governor and council, and to be paid by the said corporation; and the said corporation shall keep the same, together with the said railroad tracks, in good repair and safe condition, and shall open the said draws, and afford all proper and convenient accommodation to vessels having occasion to pass the same, by day and by night. Governor to appoint commissioners.

SECT. 14. The capital stock of said corporation shall not exceed two hundred thousand dollars, to be divided into shares of one hundred dollars each; and no shares shall be issued for a less sum, to be actually paid in on each, than the par value of the shares which shall be first issued. Capital stock.

SECT. 15. If the said street, bridge, and avenue, shall not be completed within three years from the passage of this act, then this act shall be void. To be completed in three years, or act void.

April 28, 1853.

1853. — CHAPTER 266.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO BUILD A WHARF.

Be it enacted, etc.:

SECTION 1. The city of Boston, owning flats situated on Condor street, in that part of Boston known as East Boston, and lying between, and adjoining, land and flats, now or lately belonging to Robert G. Shaw, on the westerly side, and Charles J. Hendee, on the easterly side of said land and flats, is hereby authorized to build and maintain a wharf on said flats, and to extend it into the harbor channel, as far as the line established by the act entitled "an act concerning the harbor of Boston," passed the second day of May, in the year one thousand eight hundred and forty-nine, and shall have the right to lay vessels at the end and sides of said wharf, and receive wharfage and dockage therefor: *provided, however,* that this grant shall not be construed to extend to any flats or land of this commonwealth, lying in front of the flats of any other person, or which would be comprehended by the true lines of such flats continued to the said commissioners' line; and *provided, also,* that so much of said wharf as may be constructed below low water mark shall be built on piles, which piles shall not be nearer to each other than six feet in the direction of the stream, and eight feet in a transverse direction; and that this act shall in no wise impair the legal rights of any person whatever. East Boston. Right of wharfage. Proviso.

SECT. 2. This act shall take effect from and after its passage.

April 30, 1853.

1854. — CHAPTER 353.

AN ACT AUTHORIZING CERTAIN RAILROADS TO TAP THE COCHITUATE WATER PIPE AT CHARLESTOWN.

Be it enacted, etc.:

SECTION 1. The Boston and Maine Railroad, the Eastern Railroad, and the Fitchburg Railroad Companies, with the assent of the city of Boston, and on such terms and conditions as the said city shall deter- Corporations may take water.

Proviso.

May open streets.

To cross channel.

mine, are hereby severally authorized to insert into the main pipe which conveys the Cochituate water to the state prison, a service pipe for the purpose of taking water for the use of said corporations respectively: *provided*, that each of said corporations inserting a service pipe, as aforesaid, pay to the warden of the state prison such sum or sums, for the use of such pipe, as may be mutually agreed upon by the inspectors of said prison and such corporation.

SECT. 2. Each of said corporations shall have power, with the assent of the city of Charlestown, to open any of the streets or ways of said city, that may be necessary for the purpose of laying down or repairing the service pipes aforesaid.

SECT. 3. Each of said corporations is hereby authorized to carry said service pipe across the channel of Miller's river, in such manner as not to interfere with the navigation thereof; the manner of crossing said channel to be under the direction of a commissioner, who shall be appointed by the governor for that purpose, and who shall be paid for his services by the corporation or corporations requiring such services.

SECT. 4. This act shall be void unless accepted by the city council of Boston within sixty days after its passage.¹

April 24, 1854.

1854. — CHAPTER 408.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO LAY OUT A HIGHWAY.

Be it enacted, etc.:

Highway in Boston.

SECTION 1. The mayor and aldermen of the city of Boston are hereby authorized and empowered to lay out a highway, in continuation of Clinton street, in said city, not exceeding sixty feet wide, and extending from the easterly line of Commercial street, easterly, not exceeding two hundred and forty feet, and from some point on the said continuation, extending north-easterly, not exceeding sixty-six feet wide, and nearly parallel with said Commercial street, to Eastern Packet pier, and from some point on the said continuation of Clinton street, extending south-westerly, not exceeding forty feet in width, to City wharf, so called: *provided*, that the assent of the proprietors of the flats over which the said highway shall pass, shall be first obtained.

Proviso.

Act repealed.

SECT. 2. An act entitled "an act to authorize the city of Boston to lay out a highway," passed April twelve, eighteen hundred and fifty-four, is hereby repealed.

SECT. 3. This act shall take effect from and after its passage.

April 28, 1854.

1855. — CHAPTER 73.

AN ACT TO EXTEND ALBANY STREET IN THE CITY OF BOSTON.

Be it enacted, etc.:

May construct bridge.

Proviso.

SECTION 1. The city of Boston is hereby authorized to construct and maintain a bridge over Roxbury creek, in continuation of Albany street, upon such line as shall be agreed upon between the mayor and aldermen of Boston and the mayor and aldermen of Roxbury: *provided*, that such bridge shall be furnished with a draw of such dimensions, and built in such manner, as shall be approved by

¹ Accepted by the city council, June 16, 1854.

a commissioner to be appointed by the governor; the fee of such commissioner to be paid by the city of Boston.

SECT. 2. This act shall take effect from and after its passage.

March 19, 1855.

[1856, 107; 1859, 21.]

1855. — CHAPTER 86.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO LAY OUT A HIGHWAY.

Be it enacted, etc.:

SECTION 1. The proper authorities of the city of Boston are hereby empowered to lay out and construct a highway in continuation of Charles street, commencing at Cambridge street, thence over the land in front of the new jail, thence over the tide-waters in Charles river, and thence to North Charles street, and over and along said street to the street leading to Craigie's bridge, so called; and the said authorities may lay out the said proposed street the whole distance at one time, or portions thereof at different times, as they may deem it most expedient: *provided*, that the said street shall not be laid out below the commissioners' line as established by law.

Continuation of
Charles street.
Boundaries.

Proviso.

SECT. 2. This act shall take effect from and after its passage.

March 26, 1855.

1855. — CHAPTER 176.

AN ACT TO CONFIRM TITLES TO LANDS IN FOREST HILLS CEMETERY.

Be it enacted, etc.:

SECTION 1. All conveyances of lands in Forest Hills cemetery heretofore made by the city of Roxbury, in which an impression of the established seal of said city has been made upon the paper on which such conveyances were written, shall be taken and held to be valid in law, to pass the title to the lands described in the same, and to bind said city by the covenants therein contained, to the same extent it would have been bound had said seal been impressed on wax or wafer attached to such conveyances.

Conveyances of
lands in Forest
Hills cemetery
confirmed.

SECT. 2. This act shall take effect from and after its passage.

April 14, 1855.

1855. — CHAPTER 335.

AN ACT TO ESTABLISH THE EAST BOSTON FREE BRIDGE.¹

Be it enacted etc.:

SECTION 1. Henry D. Gardner, Morrell Cole, Watson G. Mayo, Noah Sturtevant, George W. Gerrish, Henry Jones, their associates and successors, are hereby made a corporation by the name of the East Boston Free Bridge.

Corporators.

SECT. 2. Said corporation is hereby authorized to build a bridge across Chelsea creek from a point beginning on the north line of Condor street, at a point where the westerly line of Meridian street, if produced, would strike the north line of Condor street, then running easterly on the last mentioned line forty feet, then turning and running northerly (at a right angle with said Condor street), straight to the commissioners' line on Chelsea creek, so called; com-

May construct
bridge.
Boundaries.

¹ Now called Meridian-street bridge. See Statutes and Ordinances (ed. 1876), p. 74.

mencing again at the point of beginning, and running northerly towards the channel parallel with, and forty feet distant from, the last mentioned line, and at right angles with said Condor street, extending from Condor street to the commissioners' line, thence across the channel of Chelsea creek to the commissioners' line on the Chelsea side, thence to Pearl street in said Chelsea, as it now is. Which bridge shall be well built of good materials, not less than forty feet wide, with sufficient railings for the protection of passengers, with a pivot or turn-table draw made upon E. G. Brown's plan, with two openings, each not less than sixty feet wide; which draw shall, at all times, on demand, be opened for the passage of vessels that cannot pass under said bridge. And in case any such vessel, about to pass said bridge, shall be detained more than thirty minutes, the corporation shall forfeit and pay to the owner or owners of such vessel, a sum not less than two nor more than ten dollars, to be recovered by action of contract in any court proper to try the same, and no toll shall be demanded of any person or persons who shall pass over said bridge. Said corporation shall not build said bridge until a good and sufficient bond, to be approved by the treasurer of this commonwealth, in the penal sum of five thousand dollars, shall be filed in the office of said treasurer, conditioned to pay all penalties and forfeitures that may be incurred, within the meaning and intent of this act. Said corporation shall be liable for all damages to travellers over said bridge, happening through any defect of the same, in the same way and manner as the towns are liable for defects in public highways and bridges, and the condition of the bond, herein before mentioned, shall also provide for the payment of all damages which may be so sustained.

Forty feet wide, with draw.
Forfeit for detention of vessels.
Toll free.
Bond to commonwealth.
Corporation liable for damages.
Corporation to hold charter for benefit of Boston and Chelsea.
Act void, unless, etc.

SECT. 3. The said corporation are to receive, hold, and conduct, said charter or act of incorporation, for the benefit of the city of Boston and the town of Chelsea, in the county of Suffolk, subject, however, to the free use of said bridge to the public, and with right to transfer said charter.

SECT. 4. If said bridge is not built within five years after the passing of this act to build said bridge, then the said act shall be void.

May 15, 1855.

[1856, 109.]

1855. — CHAPTER 406.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO BUILD A BRIDGE.

Be it enacted, etc. :

New bridge
 across Fore
 Point channel
 (Federal street
 bridge).

The city of Boston is hereby authorized to widen and repair the bridge crossing Fore Point channel, at Sea street, or may construct a new bridge near thereto, and for that purpose may drive piles in said channel necessary therefor, and also for draw-piers and other uses which the city may deem expedient and proper for the public welfare and its own convenience; and said bridge, so constructed, shall be provided with good and suitable draws, which said city shall open and close at all times, for the accommodation of vessels having occasion to pass the same.

May 19, 1855.

[1825, 147; 1830, 121; 1831, 46; 1869, 194.]

1856. — CHAPTER 107.

AN ACT IN ADDITION TO "AN ACT TO EXTEND ALBANY STREET IN THE CITY OF BOSTON."

Be it enacted, etc.:

SECTION 1. The city of Boston is hereby authorized to extend Albany street to, and connect the same with, any bridge that may be constructed in pursuance of "an act to extend Albany street, in the city of Boston," passed on the nineteenth day of March, one thousand eight hundred and fifty-five, and also to take, fill up, and grade, such land (whether covered by water or otherwise), as may be necessary for that purpose: *provided*, that such extension of said street shall not affect any rights of the commonwealth in the land over which said street may be extended, nor the rights of any corporation now existing, nor the rights of any private individual. Extension of Albany street.

SECT. 2. This act shall take effect from and after its passage.

April 14, 1856.

[1855, 73; 1859, 21.]

1856. — CHAPTER 109.

AN ACT IN ADDITION TO "AN ACT TO INCORPORATE THE EAST BOSTON FREE BRIDGE."¹

Be it enacted, etc.:

SECTION 1. The city of Boston is hereby authorized to purchase the bridge which the East Boston Free Bridge Corporation were authorized to build, by the act to which this is an addition, and also any other property of said corporation, to hold and maintain the same for the purposes named in said act. City authorized to purchase bridge.

SECT. 2. The city of Boston is hereby authorized to construct such guards or piers as the safety of said bridge may require.

SECT. 3. This act shall take effect from and after its passage.

April 14, 1856.

[1855, 335.]

1856. — CHAPTER 124.

AN ACT IN RELATION TO A BURYING-GROUND IN THE TOWN OF WEST ROXBURY.

Be it enacted, etc.:

SECTION 1. That the selectmen of the town of West Roxbury be, and they hereby are, authorized and empowered to prescribe the limits, and to define what shall be the boundaries, within which the dead shall be interred on the land owned by the Reverend Patrick O'Beirne, upon which land said O'Beirne was authorized to establish a burying-ground, by the city of Roxbury, in the year of our Lord one thousand eight hundred and forty-nine; and the said selectmen, after establishing said limits, are authorized to appoint undertakers for said burying-ground; and the said burying-ground shall be under the same laws, regulations, restrictions, and limitations, as apply to other burying-grounds in the commonwealth. Selectmen to define limits of burying-ground and appoint undertakers.

SECT. 2. The county commissioners for the county of Norfolk, or the selectmen of the town of West Roxbury, are hereby authorized Authorized to lay out highway.

¹ Now called Meridian-street bridge.

Appeal.

and empowered to lay out a highway across the land above described, of the said O'Beirne, agreeably to the plan of said highway, described in a plan drawn by William A. Garbett, under date of May twenty-fifth, eighteen hundred and fifty-five, if they shall judge public convenience requires said highway, upon awarding to said O'Beirne such damages as they who lay out said highway may adjudge to be reasonable, the award to be subject to the same appeal as is authorized in other awards for land damages.

SECT. 3. This act shall take effect from and after its passage.

April 19, 1856.

1856. — CHAPTER 301.

AN ACT TO PROTECT BOSTON HARBOR.

Be it enacted, etc. :

Penalty for carrying away stones, gravel, or sand.

SECTION 1. Any person who shall take, carry away, or remove, by land or water, any stones, gravel, or sand, from any of the beaches, head-lands, or islands, within or bordering upon Boston harbor, without a license therefor from the mayor and aldermen of the city of Boston, shall, for each offence, forfeit a sum not exceeding twenty dollars, to be recovered by complaint or indictment in any court of competent jurisdiction.

Limits of harbor for purposes of this act.

SECT. 2. Boston harbor, for the purposes of this act, shall be deemed to extend to a line drawn from the outer end of Commercial point, in the town of Dorchester, direct to the outer end of Point Alderton, in the town of Hull; thence to the outer end of the outer Brewster island, and thence direct to the short beach, at the division line between the towns of North Chelsea and Winthrop.

SECT. 3. All acts and parts of acts, inconsistent with this act, are hereby repealed.

SECT. 4. This act shall take effect from and after its passage.

June 6, 1856.

1857. — CHAPTER 11.

AN ACT RELATING TO THE PUBLIC LIBRARY IN THE CITY OF BOSTON.

Be it enacted, etc. :

Limit of appropriations repealed.

SECTION 1. So much of the act of March twelfth, one thousand eight hundred and fifty-three, as limits to ten thousand dollars the appropriations authorized to be made annually by the city of Boston to maintain a public library, is hereby repealed.

SECT. 2. This act shall take effect from and after its passage.

March 4, 1857.

[1853, 38.]

1857. — CHAPTER 35.

AN ACT TO ESTABLISH A BOARD OF DIRECTORS OF THE PUBLIC INSTITUTIONS FOR THE CITY OF BOSTON AND FOR THE COUNTY OF SUFFOLK.

Be it enacted, etc. :

Election of directors of public institutions.

SECTION 1. There shall be elected by the city council of the city of Boston, by concurrent vote, twelve suitable persons, resident citizens of the said city, who shall constitute a board of directors for the houses of industry and reformation, and the lunatic hospital

within said city, and the house of correction for the county of Suffolk. The said board shall be styled, "The Board of Directors for Public Institutions," and shall have all the authority and powers, and be subject to all the duties, now conferred and imposed by virtue of existing statutes, respectively, upon the directors of said houses of industry and reformation, and the overseers of said house of correction, together with such other powers and duties in connection with said lunatic hospital, and the management of the business thereof, as the said city council may, by ordinance, and in conformity to the statutes of the commonwealth, provide. A majority of said board of directors shall constitute a quorum for the transaction of business; and upon the election of the first board, as provided in the fourth section of this act, said city council shall be discharged from all obligations of statutes now existing, requiring the election or appointment of directors or overseers for either of said institutions.

Powers and duties.

1822, 65.
1825, 182.
1826, 111.
1843, 22.
R.O. c. 33, § 2.

City council discharged from obligations.

SECT. 2. The said board of directors shall also have the same powers as to the discharge of insane persons from confinement, as are now vested in the mayor and board of aldermen of said city.

Powers as to insane.

SECT. 3. The said city council shall have power to pass such ordinances, not inconsistent herewith, or repugnant to other laws of this commonwealth, as to the duties and authority of said board of directors, and providing for their reasonable compensation, as it may, from time to time, deem expedient and necessary.

City council may pass ordinances.

R.O. c. 33.

SECT. 4. Said city council shall proceed, after the acceptance of this act, to elect by ballot nine citizens at large, three of whom shall be elected and hold their office for three years, three for two years, and three for one year; and these persons, together with one member from the board of aldermen, and two members from the common council of said city, to be elected for one year by the said city council, shall constitute the first board of directors under this act; and thereafter, annually, the said city council shall elect, in the manner aforesaid, three citizens of said city, at large, who shall hold their office in said board of directors for three years, and one member of the board of aldermen, and two members of the common council of said city, who shall hold their office in said board of directors for one year. Each of the said directors so elected under this act shall, in addition to his said term, hold his office until another is elected in his stead; and the said city council shall have power to remove members from said board of directors for cause shown, and to fill all vacancies which may occur in the same.

Election of first board of directors.

Subsequent elections.

Power to remove members and fill vacancies.

SECT. 5. This act shall not go into effect unless accepted by said city council within six months from its passage, and shall take effect directly upon and after such acceptance.¹

When to take effect.

SECT. 6. All acts and parts of acts, inconsistent herewith, are hereby repealed.

March 28, 1857.

[1822, 56; 1824, 28; 1825, 182; 1826, 111; 1839, 181; 1840, 79; 1843, 22; 1847, 208; 1851, 243; 1857, 281; 1858, 112; P.S. 220; P.S. 222, §§ 16, 20.]

1857. — CHAPTER 135.

AN ACT TO INCORPORATE THE JAMAICA POND AQUEDUCT CORPORATION.

Be it enacted, etc.:

SECTION 1. George H. Williams, Arthur W. Austin, and Thomas B. Williams, their associates and successors, are hereby made a corporation by the name and title of the Jamaica Pond Aqueduct Cor-

Corporators.

Name.

¹ Accepted by city council May 30, 1857.

Certain acts confirmed.

poration; and the provisional agreement made by the city of Boston with the said George H. Williams by which the said city have agreed to convey their interest in all the property, estates, and privileges, except that of supplying or distributing water within the limits of the city of Boston, of the aqueduct corporation which was incorporated by act passed the twenty-seventh day of February, seventeen hundred and ninety-five, is hereby authorized, sanctioned, and confirmed; and the sale by said city of Boston to said George H. Williams, of all the property, estates, and privileges, which the said city of Boston was authorized to purchase of the aqueduct corporation, by the sixteenth section of the act passed March thirtieth, eighteen hundred and forty-six, is hereby authorized.

May bring water from Jamaica pond.

SECT. 2. The said Jamaica Pond Aqueduct Corporation are hereby authorized and empowered to bring the water from Jamaica pond, from the same source and point from which the aqueduct corporation incorporated in the said year seventeen hundred and ninety-five brought the said water; and shall have full power and lawful authority, by subterraneous pipes, to bring water from said Jamaica pond, and supply the same to the city of Roxbury, to the town of Brookline, and to the town of West Roxbury; and for this purpose the said Jamaica Pond Aqueduct Corporation shall have, use and enjoy the same rights, privileges, and easements, for supplying pure water to the towns and city aforesaid, as were had, used, and enjoyed, by the aqueduct corporation for the dispensing water to the city of Boston; and to enable the said corporation to supply the said city of Roxbury and the towns aforesaid, the said corporation are hereby fully authorized and empowered to open the ground in any part of the streets and highways in the city of Roxbury, and town of West Roxbury, and town of Brookline, for the purpose of sinking and repairing such pipes and conductors as it may be necessary to sink for the purpose aforesaid: *provided*, that the said highways and streets shall not be opened or used by the said corporation in such manner as to obstruct or hinder the citizens of the commonwealth; and the said corporation, after opening the ground in any of the said streets or highways, shall be held to put the same again in repair to the satisfaction of the authorities of the said city and towns respectively: *provided, also*, that in excavating for the purposes of laying the pipes or repairing the same, the work shall be done agreeably to the direction of the board of mayor and aldermen of the city of Roxbury, and in the towns of West Roxbury and Brookline, under the direction of the selectmen of those towns respectively: *and it is further provided*, that the city of Roxbury shall be allowed the privilege of inserting ten hydrants into the main pipes of the aqueduct at such points as may be indicated by the city authorities of Roxbury, with the right of using the water in cases of fire, but for no other purpose whatever, without the special permission of the directors of the corporation.

Rights, privileges.

May open ground, lay pipes, etc.

Proviso.

Proviso.

Proviso.

May enter upon and lay down pipes.

SECT. 3. The said corporation be, and they are, hereby authorized and empowered, for the purpose of extending their supply of fresh water, to enter upon and improve for the laying down subterraneous pipes, the corporate or private estate of any person, town, or corporation whatsoever, within the boundaries of the city of Roxbury, town of West Roxbury, or town of Brookline; and the said corporation are hereby empowered to take, hold, purchase, or improve, for the purpose of laying down subterraneous pipes, any land not exceeding ten feet in width in the territory of the said city and towns aforesaid, and shall at all times have free ingress and egress into and from the same in order to lay down, inspect, renew, and repair, the said pipes; and the said corporation shall be held to pay all damages which shall

Damages, how settled.

accrue to any party by the taking, holding, or improving, the land aforesaid, for the purposes aforesaid; and where the damages cannot be adjusted satisfactorily by the parties, the damages may be estimated by the county commissioners of the county of Norfolk, saving to either party the right of trial by jury, according to the law which provides for the recovery of damages accruing by laying out public highways. All claims for damages shall be preferred by the party entitled to demand the same, within twelve months from the time when the ground shall have been taken or first entered upon in manner as herein before mentioned; and the said corporation, after having opened any of the ground aforesaid, for the purposes aforesaid, shall be held to put the same again in proper condition. Said corporation shall be liable for any loss or injury that any person or persons may sustain by reason of any carelessness, neglect, or misconduct, of said corporation, or of any of its agents or servants; and in case any recovery shall be had against either of said towns, or against said city of Roxbury, in consequence of such carelessness, neglect, or misconduct, or in consequence of any act of said corporation, or of its servants or agents, said corporation shall be liable to pay to said towns and said city of Roxbury, respectively, any sums thus recovered against them, together with all costs and reasonable expenditures incurred by said towns and said city of Roxbury, or either of them, in defence of such suit or suits in which such recovery may be had; but nothing herein contained shall be construed as creating any obligation or liability on the part of said towns or said city of Roxbury, beyond that which now exists by law.

Corporation
liable, etc.

SECT. 4. The capital stock of said corporation shall not exceed the sum of one hundred thousand dollars, to be divided into shares of one hundred dollars each; and no shares shall be issued for a less sum; to be actually paid in on each, than the par value of the shares which shall first be issued; and said corporation may establish the capital stock at fifty thousand dollars, with power, by vote of two-thirds of the stockholders in interest, to increase the same to one hundred thousand dollars; and said corporation shall have power to purchase and hold such real estate, within said city of Roxbury and towns aforesaid, as may be necessary or convenient for the purposes and management of said aqueduct corporation.

Capital stock
not to exceed
\$100,000.
Shares \$100
each.
No shares is-
sued under par.

SECT. 5. And the said Jamaica Pond Aqueduct Corporation are hereby authorized and empowered to draw the water from the said pond, from the same point established and limited by the easement, privileges, and rights, acquired by the aqueduct corporation, chartered in the year seventeen hundred and ninety-five, and no farther, without the consent of the inhabitants of the town of West Roxbury, in town meeting assembled; and all the rights, interests, and estate, of the town of West Roxbury, in said pond, are hereby reserved, as to cutting ice, or any other general use or appropriation thereof, which does not impair the rights and privileges and easements of the said Jamaica Pond Corporation, as aforesaid; and the said aqueduct corporation shall, whenever requested by the selectmen of West Roxbury, so draw off the water, that the banks of said pond shall not be washed away or otherwise injured.

Rights, privi-
leges, etc., of
corporation.

Rights, etc., of
West Roxbury.

SECT. 6. The said Jamaica Pond Aqueduct Corporation shall have no right, after the passage of this act, to supply any water from Jamaica pond to the city of Boston, or to the inhabitants thereof, unless especially authorized and requested by the city authorities of Boston; and the right of supplying water shall be limited to the city of Roxbury and to the towns aforesaid; but if any change in the municipal jurisdiction, over a whole or a part of the territory now known as the city of Roxbury, should take place, nothing in this act

Rights limited
to furnish water,
etc.

shall be so construed as to take away the right to supply the whole or any portion of such territory.

Right of parties
entitled to dam-
ages.

SECT. 7. When any claim for damages shall be preferred by any party for laying down, renewing, or repairing, the pipes of said corporation, as provided for in the third section, said damages shall be paid within three months after the same shall be fixed and determined; and if not so paid, the party entitled to such damages shall have the right to take up and remove said pipes on his premises; and they shall not be relaid until said damages are paid.

May 8, 1857.

1857. — CHAPTER 169.

AN ACT TO CONFIRM AN INDENTURE CONCERNING THE BACK BAY.

Be it enacted, etc.:

Indenture be-
tween the com-
monwealth, the
Boston Water-
Power Co., and
the city of Bos-
ton, confirmed.

The indenture of three parts made and executed on the eleventh day of December, in the year eighteen hundred and fifty-six, by and between the Commonwealth of Massachusetts, acting by its committee appointed under and in pursuance of the "resolves in relation to lands in the Back Bay," approved May thirtieth, in the year eighteen hundred and fifty-six, of the first part; the Boston Water-Power Company, of the second part; and the city of Boston, of the third part, is hereby confirmed and established: *provided*, this act shall not prejudice the legal rights of the city of Roxbury, or of the town of West Roxbury.

Back Bay
Agreements,
p. 53.

May 18, 1857.

1857. — CHAPTER 281.

AN ACT CONCERNING THE BOSTON LUNATIC HOSPITAL.

Be it enacted, etc.:

Patients may be
admitted who
are not paupers.

SECTION 1. The city of Boston, by and through the agency of the board of visitors of the Boston lunatic hospital, or by and through any other agency which shall be established therefor by the city council of the city of Boston, may admit into said hospital, as patients, insane persons who are not paupers, upon such terms and conditions, and for such compensation as may, from time to time, be fixed by said city council, or by the authority thereof.

SECT. 2. This act shall take effect from and after its passage.

May 30, 1857.

[1839, 131; 1840, 79; 1851, 243; 1857, 35.]

1857. — CHAPTER 302.

AN ACT CONCERNING INSANE PERSONS IN THE CITY OF BOSTON.

Be it enacted, etc.:

May be com-
mitted to the
Boston lunatic
hospital.

SECTION 1. The municipal court of the city of Boston, and all other courts and magistrates having authority to commit insane persons to the state lunatic hospital, may commit all insane persons found in the city of Boston, whether they are furiously mad or otherwise, who have their legal settlement in the city of Boston, or in any other city or town within this commonwealth, to the Boston lunatic hospital, in all cases in which said courts and magistrates are authorized by law, to commit such persons to the state lunatic hospital.

SECT. 2. This act shall take effect from and after its passage.

May 30, 1857.

[1839, 131; 1840, 79; 1851, 243.]

1858. — CHAPTER 112.

AN ACT CONCERNING THE REMOVAL OF PRISONERS IN THE PUBLIC INSTITUTIONS IN THE CITY OF BOSTON.

Be it enacted, etc. :

The board of directors for public institutions of the city of Boston, comprising the house of correction, house of industry, house of reformation, and lunatic hospital, is hereby authorized, at its discretion, to transfer from any one of the said institutions, to any other of said institutions, any prisoner sentenced to either of the same: *provided*, the assent of the court or magistrate, that committed said prisoner, shall first be obtained to such removal.

Directors authorized to transfer prisoners from one institution to another.

Proviso.

March 27, 1858.

[1857, 35.]

1858. — CHAPTER 113.

AN ACT AUTHORIZING THE CITY OF BOSTON TO ESTABLISH A CITY HOSPITAL.

Be it enacted, etc. :

SECTION 1. The city of Boston is hereby authorized to erect, establish, and maintain, a hospital for the reception of persons who, by misfortune or poverty, may require relief during temporary sickness.

Authorized to establish hospital.

SECT. 2. The city council of said city shall have power to make such ordinances, rules, and regulations, as they may deem expedient, for the appointment of trustees, and all other necessary officers, agents, and servants, for managing the said hospital.

Appointment of officers.
R.O. c. 34.
1880, 174, § 6.

SECT. 3. Said hospital shall not be erected or located within three hundred feet of any school-house or church now built.

Location.

SECT. 4. This act shall take effect from and after its passage.

March 27, 1858.

[1880, 174.]

1859. — CHAPTER 21.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO LAY OUT A HIGHWAY BY EXTENDING ALBANY STREET.

Be it enacted, etc. :

SECTION 1. The board of aldermen of the city of Boston, with the concurrence of the common council, and the approval of the mayor thereof, are hereby authorized and empowered to lay out a highway, in continuation of Albany street, in said city, not exceeding eighty feet wide, and extending from Malden street, across the tide water in the south bay, so called, in any convenient direction or directions, within the commissioners' line, as now established, to Troy street: and to protect said highway, if they shall deem it necessary, by the erection of a sea-wall outside thereof: *provided, however*, that no part of such sea-wall shall be outside of the said commissioners' line; and, also, if they shall see fit, to widen the Dover-street bridge between Harrison avenue and Foundry street, so that the same may be fifty feet wide, and no more, between the points herein designated.

Extension of Albany street, etc.

SECT. 2. Any person or persons, whose flats or land shall be taken for the purpose aforesaid, shall have the same rights and remedies.

Damages, how settled.

dies for the assessment and collection of damages sustained by him or them, which are now provided by law in cases where lands are taken for public highways.

SECT. 8. This act shall take effect from and after its passage.

February 4, 1859.

[1855, 73; 1856, 107.]

1859. — CHAPTER 173.

AN ACT TO INCORPORATE THE PAWNERS' BANK.¹

Be it enacted, etc.:

Government of
the bank.

One director to
be appointed
annually by
mayor.

SECTION 6.² The government of the bank shall be in seven directors, five of whom shall be chosen annually, in October, by the stockholders, together with one to be appointed by the governor of the commonwealth, and one to be appointed by the mayor of the city of Boston; and the board thus created shall elect one of their number president, and such other officers as may be deemed necessary.

April 5, 1859.

[1876, 11.]

1859. — CHAPTER 184.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO RAISE THE DAM AT THE OUTLET OF LAKE COCHITUATE.

Be it enacted, etc.:

City of Boston
authorized to
to raise dam.

May take and
hold real estate.

Proviso.

Exemption from
taxation.

City to be liable
for all damages
sustained.

Rights and remedies.

SECTION 1. The city of Boston is hereby authorized, by and through the agency of the Cochituate water board therein, or by and through any other agency which shall be established therefor, by the city council of said city, to raise the dam at the outlet of Lake Cochituate, formerly called "Long Pond," lying in the towns of Natick, Wayland, and Framingham, to the height of ten feet above the floor of "Knight's Flume," so called, and may also take and hold, from time to time, by purchase or otherwise, any lands or real estate on and around the margin of said lake, not exceeding five rods in width, measuring from the verge of said lake, when the same shall be raised to the level authorized by this act, so far as such lands and real estate may be necessary for the preservation and purity of said lake, for the purpose of furnishing a supply of pure water for said city of Boston: *provided, however*, that no lands or real estate taken or purchased under this act, shall be exempted from taxation, by reason of such taking or purchase. All lands and real estate within said towns, heretofore taken or purchased, and now held by said city by virtue of an act approved March thirtieth, eighteen hundred and forty-six, or by virtue of any other act heretofore passed, shall be and remain exempted from taxation, so long as they continue to be so held and used for the purposes of said acts.

SECT. 2. The said city of Boston shall be liable to pay all damages that shall be sustained by any persons in their property, by the taking of any land or real estate, or by the flowage of the lands of any person as aforesaid; and in regard to such taking and flowage,

¹ By St. 1869, c. 428, § 1 (not printed in this volume), the name was changed to the Collateral Loan Company.

² No other section of this act relates to the city of Boston or to any of its officers.

and the ascertainment and payment of all such damages, the said city of Boston, and all persons claiming damages, shall have all the rights, immunities, and remedies, and be subject to all the duties, liabilities, and obligations, which are provided in the one hundred and sixty-seventh chapter of the acts of the year one thousand eight hundred and forty-six, the one hundred and eighty-seventh chapter of the acts of the year one thousand eight hundred and forty-nine, and the three hundred and sixteenth chapter of the acts of the year one thousand eight hundred and fifty. Said city of Boston shall also indemnify said towns of Natick and Wayland, against all injury which may at any time be done to any highway or bridge in such towns, by reason of the raising of the water, and maintaining the dam, as herein before provided.

City to indemnify Natick and Wayland.

SECT. 3. This act shall not take effect, until said city of Boston shall have paid to the said town of Framingham the sum of forty-five hundred dollars; to the said town of Natick, the sum of three thousand dollars; and to the said town of Wayland, the sum of one thousand dollars; nor until said act shall have been accepted by the city council of said city of Boston.¹

Act not to take effect until, etc.

April 5, 1859.

[1846, 167; 1849, 187; 1850, 316.]

1859. — CHAPTER 210.

AN ACT IN RELATION TO THE BACK BAY AND THE PUBLIC GARDEN IN THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1.² The boundary line between the cities of Boston and Roxbury is hereby altered and established as follows: beginning at a point where the present boundary line between the two cities intersects the easterly side of Avenue Number VI., as laid down on the plan accompanying the third annual report of the commissioners on Boston Harbor and Back Bay, dated October thirty, eighteen hundred and fifty-four, thence running by the said easterly side of said Avenue Number VI., to the present boundary line near the mill-dam; and all that portion of land, flats, or channels, easterly of the line hereby established, is hereby annexed to and made a part of said city of Boston in the county of Suffolk, and shall constitute a part of ward nine, until a new division of the wards: *provided*, that this act shall not affect the present apportionment for the choice of senators and representatives to the general court, and of councillor.

Boundary between Boston and Roxbury altered and established.

SECT. 2. If there shall be within the limits of the territory hereby annexed to the city of Boston, any portion which is owned by the city of Roxbury, the city of Boston shall not assess any taxes on such portion owned by Roxbury, so long as it is so owned.

Proviso.

SECT. 3. The commissioners on the Back Bay are hereby authorized and required to fill up and complete, at the expense of the commonwealth, so much of the street next west of the public garden called Arlington street, as remains to be completed at the time of the passage of this act, so that the said street shall be of the full width of eighty feet; and also the strip of land easterly of said street, which was released by the commonwealth to the city of Boston by indenture dated December eleventh, eighteen hundred and fifty-six; and no building shall hereafter be erected between Arlington and Charles streets, except such as are expedient for horticultural

Boston not to tax any portion owned by Roxbury.

Back Bay commissioners to fill up certain lands.

Restriction.

¹ These conditions were complied with, and the act was accepted by the city council, May 5, 1859. See City Records, Vol. 37, p. 222.

² Sections one and two were superseded by annexation of Roxbury to Boston.

Proviso.

purposes: *provided*, that nothing herein contained shall render it unlawful to erect a city hall on the public garden.

Commissioners of award to be appointed.

SECT. 4. For the purpose of determining a just equivalent to the city of Boston, for the relinquishment hereby made of any rights the said city may now have to erect buildings on the strip of land on Arlington street, which was conveyed to the city by the said indenture of December eleventh, eighteen hundred and fifty-six, the governor of the commonwealth and the mayor of said city shall appoint three commissioners, who shall make an award thereon; and the commonwealth shall convey to the city of Boston such portion of the land or flats in the Back Bay, belonging to the commonwealth, and upon such limitations and restrictions as the said commissioners shall order and direct, in said award, as such equal equivalent; and if such commissioners shall not be appointed within thirty days after this act shall take effect, the supreme judicial court, upon the representation of either party, and upon notice to the other, shall appoint such commissioners.

Supreme judicial court to appoint, in case, etc.

Sewer to be constructed.

SECT. 5. The commissioners on the Back Bay are authorized and required to construct all that part of the main sewer, extending from Tremont street, in Boston, to Charles river, which is to be built by the commonwealth, in accordance with the tripartite indenture between the commonwealth and the city of Boston and the Boston Water-Power Company, dated December eleventh, eighteen hundred and fifty-six.¹

Act to be accepted by legal voters of Boston.

SECT. 6. The board of aldermen of the city of Boston shall notify and warn the legal voters of the said city to meet in their respective wards on some day within thirty days from the date of the passage of this act, for the purpose of giving their votes "yes" or "no" in answer to the question, "Are you in favor of accepting an act of the legislature of eighteen hundred and fifty-nine, entitled 'an act in relation to the Back Bay and the public garden in the city of Boston'?" and the votes shall be received, sorted, and counted, and declaration made thereof in the same manner as votes at other elections; and the mayor and aldermen shall transmit to the secretary of the commonwealth, within seven days after said meetings, a true return of the votes in the affirmative and negative; and if it shall appear that a majority of the votes are in favor of the acceptance of this act, then it shall be considered as binding in all its provisions, alike upon the commonwealth of Massachusetts and the city of Boston, and shall have full force and effect; but if a majority of the votes are against the acceptance of this act, then it shall be null and void, and the secretary shall give public notice accordingly.²

SECT. 7. The preceding section, authorizing and directing the submission of this act to the legal voters of Boston, shall take effect from and after the passage of this act.

April 6, 1859.

1859. — CHAPTER 211.

AN ACT CONCERNING FANEUIL HALL MARKET, IN BOSTON.

Be it enacted, etc.:

Provisions and produce to be sold on street stands around Faneuil Hall market, under certain restrictions.

SECTION 1. The city of Boston shall make no by-law, ordinance, or regulation, excluding from the occupation of street stands within the limits of Faneuil Hall market, in said city, as the same are, or may be, defined in the city ordinances for the sale of fresh provisions and perishable produce, any persons taking such stand for the sole

¹ See Back Bay Agreements, pp. 73, 78.

² Accepted April 25, 1859.

purpose of selling such fresh provisions or perishable produce: *provided* the same are the product of the farm of the person offering them for sale, or of some farm within ten miles of the residence of such person; or are to be sold at wholesale only by the party offering the same for sale on commission, for, or as agent for, some person or persons not residing or having a usual place of business within eight miles of said market; or are meats to be sold at wholesale only by the person who slaughtered the animals of which the same was a part.

SECT. 2. The said city shall make no by-law, ordinance, or regulation, prohibiting the occupation of stands within said limits, and the sale of fresh provisions and perishable produce, by the persons hereinbefore mentioned, between the hours of four o'clock in the afternoon and the time of closing said market at night, or before ten o'clock in the forenoon, except on Sunday and holidays.

No prohibition by city of Boston during certain hours of the day, except, etc. 109 Mass. 855. 9 Met. 253.

SECT. 3. Any existing by-laws, ordinances, or regulations inconsistent herewith are hereby repealed; but this act shall not be construed to repeal or prevent reasonable rules of police, needful for the decorum, convenience and good order of the market, and those who buy and sell therein.

Repeal except.

April 6, 1859.

[1860, 152.]

1860. — CHAPTER 94.

AN ACT TO AUTHORIZE THE NEWTON AND WATERTOWN GAS-LIGHT COMPANY TO EXTEND THEIR PIPES INTO THE TOWN OF BRIGHTON.²

Be it enacted, etc.:

SECTION 1. The Newton and Watertown Gas-Light Company are hereby authorized to extend their pipes for the purpose of conducting into, and selling gas in the town of Brighton.

Extension of pipes.

SECT. 2. Said corporation, with the consent of the selectmen of the town of Brighton, shall have the power and authority to open the ground in any part of the streets, lanes, and highways, of said town for the purpose of sinking and repairing such pipes and conductors as it may be necessary to sink for the purpose aforesaid; and the said corporation, after opening the ground in said streets, lanes, or highways, shall be held to put the same into repair under the penalty of being prosecuted for a nuisance: *provided*, that the selectmen of the said town, for the time being, shall at all times have power to regulate, restrict, and control all the acts and doings of said corporation which may, in any manner, affect the health, safety, and convenience of the inhabitants of said town: *provided*, said company shall not be authorized to lay gas-pipes in any streets where authority to lay such pipes has been previously granted by the selectmen of the town of Brighton, to any other company.

Opening of ground to sink pipes.

Repairs of highways.

Proviso.

Proviso.

SECT. 3. This act shall take effect upon its passage.

March 20, 1860.

[1873, 303.]

¹ Changed to eleven o'clock by St. 1860, c. 152.

² Modified by annexation to Boston, St. 1873, c. 808.

1860. — CHAPTER 109.

AN ACT TO AMEND "AN ACT TO PREVENT LIVERY STABLES FROM BEING ERECTED IN CERTAIN PLACES IN THE TOWN OF BOSTON."

Be it enacted, etc.:

1810, 124.

SECTION 1. The first section of the one hundred and twenty-fourth chapter of the statutes of the year eighteen hundred and ten, passed on the eleventh day of February, in the year eighteen hundred and eleven, is hereby amended by inserting after the word "God" the following words, to wit: "without the consent in writing of the proprietors of such church or meeting-house, or of the religious society or parish worshipping therein, and the consent of the mayor and aldermen of the city of Boston."

SECT. 2. This act shall take effect from its passage.

March 26, 1860.

[1810, 124; 1869, 369.]

1860. — CHAPTER 137.

AN ACT IN ADDITION TO AN ACT CONCERNING THE HARBOR OF BOSTON.

Be it enacted, etc.:

Wharf extensions.

SECTION 1. So much of the third section of an act entitled "an act in addition to an act concerning the harbor of Boston," passed on the third day of May, in the year one thousand eight hundred and fifty, as provides that the proprietors of the wharves and flats, by said act authorized to be extended, shall extend said wharves and the lines of their respective flats in a direction at right angles to the line established by said act, is hereby repealed, and the proprietors of said wharves and flats are hereby authorized to extend their wharves and the lines of their respective flats to the line established by said act in the directions in which the said lines of their respective flats were originally established between said proprietors.

Public streets laid out by proprietors of wharves.

SECT. 2. Whenever the said proprietors lay out or appropriate for any street or streets any portion of the said flats or wharves, the city of Boston may at any time accept and lay out as and for a public street or streets the portion or portions of said flats or wharves by said proprietors so laid out and appropriated, or any part of the same, which portions so accepted shall thereupon, and without any further act of the said proprietors, and without any compensation to them or any of them therefor, vest in the said city of Boston.

Sea-walls.

SECT. 3. Each and every one of the said proprietors of said flats, or of any part thereof, who, at the expiration of two years from the passage of this act, have failed or neglected to cause a good and substantial sea-wall to be built and maintained in front of his or their respective flats on the line established by said act, passed on the third day of May, in the year one thousand eight hundred and fifty, shall forfeit all rights acquired under said act last mentioned, or under this act.

March 31, 1860.

1860. — CHAPTER 147.

AN ACT IN RELATION TO THE POWERS OF CONSTABLES IN THE CITY OF BOSTON.

Be it enacted, etc. :

SECTION 1. Any constable in the city of Boston, who shall have given to the treasurer of the city of Boston a bond, with sureties in a sum not less than three thousand dollars, to the satisfaction of the said treasurer, with condition for the faithful performance of his duties in the service of all civil processes which may be committed to him, and shall have caused the same, with the approval of the mayor and aldermen of said city endorsed thereon, to be filed in the office of the city clerk of said city, may, within the said city of Boston, serve any writ or other process in any personal action, and any process in replevin which constables are now by existing provisions of law authorized to serve; and in addition thereto may serve any writ or process in any personal action or process in replevin which may be made returnable to the police court in said city of Boston; and no constable in the city of Boston shall serve any civil process until he shall have given the bond as herein provided.

Constables to serve writs or other process on conditions.

Repealed by P.S. For reenactment, see *post*, p. 321.

SECT. 2. This act shall take effect on the second day of June next.

April 2, 1860.

1860. — CHAPTER 152.

AN ACT IN ADDITION TO "AN ACT CONCERNING FANEUIL HALL MARKET, IN BOSTON."

Be it enacted, etc. :

SECTION 1. The two hundred and eleventh chapter of the acts of the general court of Massachusetts for the year eighteen hundred and fifty nine is hereby amended by striking out "ten o'clock in the forenoon," and substituting "eleven o'clock in the forenoon" therefor, in the second section of said act.

Amendment to 1859, 211.

SECT. 2. This act shall take effect from its passage.

April 2, 1860.

[1823, 148; 1859, 211.]

1860. — CHAPTER 182.

AN ACT IN RELATION TO SIDEWALKS IN THE CITY OF ROXBURY.

Be it enacted, etc. :

SECTION 1. The mayor and aldermen of the city of Roxbury are hereby authorized and empowered to construct sidewalks in any of the streets in said city, and to furnish all edge stones for the same, and to assess the expense of all such edge stones upon the owners of land abutting on the sidewalks so constructed, in proportion to the length of lines of their respective estates; and said owners shall be bound and obliged to pay the amounts so assessed: and in case any such owner or owners shall refuse to pay the amount so assessed, within such time as said mayor and aldermen shall designate, then such amount or amounts may be recovered by an action of contract, to be brought by said city of Roxbury before any court or tribunal having competent jurisdiction in the premises.

Abutting estates liable for expense of sidewalks.

Repeal.

SECT. 2. All acts or parts of acts inconsistent herewith, are hereby repealed.

SECT. 3. This act shall take effect from its passage.

April 4, 1860.

1860. — CHAPTER 194.

AN ACT TO AUTHORIZE THE SELECTMEN OF THE TOWN OF DORCHESTER TO LAY OUT AND CONSTRUCT A TOWN WAY.

Be it enacted, etc. :

Location of town way.

The selectmen of the town of Dorchester, in the county of Norfolk, are hereby authorized and empowered to lay out and construct a town way in the said town of Dorchester, commencing at a point at or near the place where the Old Colony and Fall River railroad crosses Mill street, so called, thence running eastwardly across the marshes and the tide-waters of the northerly branch or arm of the creek known as Barque Warwick cove, to any convenient point upon Commercial street, so called, lying northwardly of the northerly end of the bridge now standing at the mouth of the said cove; and the selectmen aforesaid, in laying out such town way, shall conform to the provisions of law for the laying out of ways within the limits of the towns in this commonwealth, and their proceedings, so far as they have been conformable to the forms and provisions of law, are hereby established and confirmed.

April 4, 1860.

1861. — CHAPTER 105.

AN ACT FOR SUPPLYING THE CITY OF CHARLESTOWN WITH PURE WATER.¹

Be it enacted, etc. :

Supply from Mystic pond.

SECTION 1. The city of Charlestown is hereby authorized to take, hold, and convey, by steam or other power, to, into, and through, the said city, by suitable aqueducts or pipes, the waters of Mystic pond, so called, in the towns of Medford, West Cambridge, and Winchester, and the waters which may flow into and from the same, and may also take and hold, by purchase or otherwise, any land, real estate, or water-rights, necessary for erecting, laying, and maintaining, and may erect, lay, and maintain, such aqueducts, pipes, dams, gates, pumps, bridges, reservoirs, embankments, water-ways, drains, or other structures as may be necessary or convenient to insure the purity of the waters of said pond, or the ponds and streams running into it, or to convey said waters into, and for the use of, the said city of Charlestown: *provided, however*, that said city shall not divert or draw water from any part of said Mystic pond lying southerly of the "narrows" or "partings," so called, in said pond. And said city of Charlestown shall have power to erect and maintain a dam between the upper and lower portions of said Mystic pond at the said "narrows" or "partings," so as to exclude the waters of the lower part from those of the upper, and raise the waters of the upper pond as high as they may judge necessary for the purposes of this act, not to exceed, however, the level of "Bacon's dam," so called. And said city of Charlestown shall not erect any dam across Mystic river, or obstruct, or exclude, the free flow of the tide into the lower Mystic pond. Said city of Charlestown shall make and maintain a suitable fish-way in the dam hereby authorized to be constructed by them at the "partings" or "narrows," so called, and upon request in writing

Proviso.

Dam may be erected.

Restriction, etc.

Charlestown to maintain fish-way.

¹ Modified by annexation of Charlestown to Boston. See St. 1873, c. 236, § 12.

made to the mayor of said city by any member of the fish committees of the towns of Medford or West Cambridge, on or after the first day of March in each year, the same shall be forthwith opened for the passage of fish, and left open until the first day of the next September, unless a majority of both of said committees shall sooner consent to have the same closed.

SECT. 2. For the purposes of distribution, the city may lay down pipes to any house or building in said city, the owner or owners thereof having notice and not objecting thereto, and may make and establish public hydrants in such places as may, from time to time, be deemed proper, and prescribe the purposes for which they may be used, and may change or discontinue the same; may regulate the use of the water within and without the said city, and establish the prices or rents to be paid for the use thereof. And the said city may, for the purposes aforesaid, carry and conduct any aqueducts or other works by them to be made and constructed, over or under any water-course, or any street, turnpike-road, highway or other way, in such manner as not to obstruct or impede travel thereon, or the free flow of the water therein. In carrying the pipes or conduits of said aqueduct across Mystic river, the same shall either be carried below the level of the bed of said river, or the bridge or other structure on which the same is carried over said river shall be elevated at least three feet in the clear above high-water level at the point where the same may cross said river; and may enter upon and dig up any such road, street, or way, for the purpose of laying down said aqueducts or other works, and for maintaining and repairing the same.

May lay pipes.

Regulation of use.
Water rents.
Powers of city.
Aqueducts.

SECT. 3. Three commissioners shall be appointed by the city council, who shall, during their continuance in office, execute and perform, superintend and direct, the execution and performance of all the works, matters, and things, mentioned in the preceding sections, which are not otherwise specially provided for in this act; they shall be subject to such ordinances, rules, and regulations, in the execution of their said trust, as the city council may, from time to time, ordain and establish, not inconsistent with the provisions of this act, and the laws of this commonwealth; they shall respectively hold their said office for the term of two years next after their said appointment, unless the aqueduct and works aforesaid shall be sooner completed; but they, or either of them, after having had an opportunity to be heard in his or their defence, may be removed at any time by a concurrent vote of two-thirds of each branch of the city council; and, in case of a vacancy in the board of commissioners, by death, resignation, or removal, such vacancy shall be filled by the appointment of another commissioner, in manner aforesaid, who shall hold his said office for the residue of the said term of two years, with all the powers and subject to all the restrictions aforesaid. A major part of said commissioners shall be a quorum for the exercise of the powers, and the performance of the duties, of the said office; they shall, once in every three months, and whenever required by the city council, make and present, in writing, a particular report and statement of all their acts and proceedings, and of the condition and progress of the works aforesaid.

Superintending commissioners.
1870, 216, § 2.

Tenure of office.

Reports of commissioners.

SECT. 4. Before the appointment of the commissioners aforesaid, the city council shall establish and fix the salaries, or compensation, to be paid to the commissioners for their services; and the said salaries of the said commissioners, so established and fixed as aforesaid, shall not be reduced during their continuance, respectively, in said office.

Compensation.

SECT. 5. Whenever the said office of commissioners shall cease, either by the expiration of the said term of two years from the

Powers and duties vested in city council.

original appointment, or by the completion of the aqueducts and works mentioned in the preceding sections of this act, all the rights, powers, and authority, given to the city of Charlestown by this act, shall be exercised by the said city, subject to all the duties, liabilities, and restrictions, herein contained, in such manner and by such agents as the city council shall, from time to time, ordain, appoint, and direct.

Damages.

SECT. 6. The said city of Charlestown shall be liable to pay all damages that shall be sustained by any persons in their property by the taking of any land, water, or water-rights, or by the constructing of any aqueducts, reservoirs, or other works, for the purposes of this act. And if the owner of any land, water, or water-rights, which shall be taken as aforesaid, or other person who shall sustain damage as aforesaid, shall not agree upon the damages to be paid therefor, he may apply, by petition, for the assessment of his damages, at any time within three years from the taking of the said land, water, or water-rights, or sustaining damage as aforesaid, and not afterwards, to the superior court in the county in which the same are situate, unless sooner barred, as provided in the seventh section of this act. Such petition may be filed in the clerk's office of said court, in vacation or in term time, and the clerk shall thereupon issue a summons to the city of Charlestown, returnable, if issued in vacation, to the then next term of the said court, and if in term time, returnable on such day as the said court shall order, to appear and answer to the said petition; the said summons shall be served fourteen days at least, before the return day thereof, by leaving a copy thereof, and of the said petition, certified by the officer who shall serve the same, with the mayor or clerk of said city; and the said court may, upon default or hearing of the said city, appoint three disinterested freeholders of this commonwealth, who shall, after reasonable notice to the parties, assess the damages, if any, which such petitioner may have sustained as aforesaid; and the award of the said freeholders, or of the major part of them, being returned into and accepted by the said court, shall be final, and judgment shall be rendered and execution issued thereon for the prevailing party, with costs, unless one of the said parties shall claim a trial by jury as hereinafter provided.

City to prosecute in certain cases.

SECT. 7. Whenever any damages shall have been sustained by any persons as set forth in the sixth section of this act, and such persons shall neglect to institute proceedings against the city of Charlestown, according to the provisions of this act, for the space of twelve months, it shall be lawful for the city of Charlestown to commence such proceedings, which shall go on and be determined in the same manner as if commenced by the persons who shall have sustained such damage; and if such persons, on receiving due notice, shall not come in and prosecute the proceedings as instituted, judgment shall be entered against them, and they shall be forever barred from recovering any damages under this act.

Appeal to a jury.

SECT. 8. If either of the parties mentioned in the sixth section shall be dissatisfied with the amount of damages awarded as therein expressed, such party may, at the term at which such award was accepted, or the next term thereafter, claim, in writing, a trial in said court, and have a jury to hear and determine, at the bar of said court, all questions of fact relating to such damages, and to assess the amount thereof; and the verdict of such jury, being accepted and recorded by the said court, shall be final and conclusive, and judgment shall be rendered and execution issued thereon, and costs shall be recovered by the said parties, respectively, in the same manner as is provided by law, in regard to proceedings relating to the laying out of highways.

Verdict to be final.

SECT. 9. No application shall be made to the court for the assessment of damages for the taking of any water-rights, until the water shall be actually withdrawn or diverted by the said city, under the authority of this act. Appropriation for assessment of damages.

SECT. 10. In every case of a petition to the superior court for the assessment of damages, as provided in the sixth, seventh, eighth, and ninth, sections of this act, the city of Charlestown, by any of its officers, may tender to the complainant, or his attorney, any sum that they shall think proper, or may bring the same into court, to be paid to the complainant for the damages by him incurred or claimed in his petition; and if the complainant shall not accept the same, with his costs up to that time, but shall proceed in the suit, he shall be entitled to his costs up to the time of the tender, or such payment into court, and not afterwards; and the said city shall be entitled to recover its costs afterwards, unless the complainant shall recover greater damages than were so offered. Recovery of damages and costs.

SECT. 11. For the purpose of defraying all the costs and expenses of such lands, estates, waters, and water-rights as shall be taken, purchased, or held, for the purposes mentioned in this act, and of constructing all aqueducts and works necessary and proper for the accomplishment of the said purposes, and all expenses incident thereto, heretofore incurred or that may be hereafter incurred, the city council shall have authority to issue, from time to time, scrip, notes, or certificates of debt, to be denominated on the face thereof, "Water bonds of the city of Charlestown," to an amount not exceeding five hundred thousand dollars, bearing interest at a rate not exceeding the legal rate of interest in this commonwealth, which shall be redeemable at a period of time not less than ten, nor more than fifty, years from and after the issue of the said scrip, notes, or certificates, respectively; and the city council may sell the same, or any part thereof, from time to time, at public or private sale, or pledge the same for money borrowed for the purposes aforesaid, on such terms and conditions as the said city council shall adjudge proper; and the said city council may, for the purpose of meeting payments of such interest as may accrue upon any certificate of debt, make such further issue of scrip, notes, or certificates of debt, as may be necessary therefor. "Water bonds." 1864, 176. 1865, 135.

SECT. 12. The city council may, from time to time, pass such by-laws and ordinances as they may deem proper for the preservation and protection of all or any of the works connected with the supplying of the city of Charlestown with pure and wholesome water, under and by virtue of this act: *provided*, such by-laws and ordinances are not inconsistent with any laws of this commonwealth, or with the constitution thereof, subject at any time to be repealed or modified by the legislature. and may also organize a department, with full powers for the management of such works, and the distribution of the said water. Water regulations. 1870, 216. Proviso.

SECT. 13. The city council shall, from time time, regulate the price or rent for the use of the water, with a view to the payment, from the net income and receipts, not only of the semi-annual interest, but ultimately of the principal of said debt so contracted, so far as the same may be practicable and reasonable. And the occupant of any tenement shall be liable for the payment of the price or rent for the use of the water in such tenement; and the owner thereof shall be also liable, if, on being notified of such use, he does not object thereto; and if any person or persons shall use any of the said water, either within or without the said city, without the consent of the city, an action of tort may be maintained against him or them for the recovery of damages therefor: *provided*, however, that this act Water rents. Liabilities of occupants and owners. Proviso.

shall not be so construed as to prevent the inhabitants of Medford, West Cambridge, and Winchester from using so much of the water hereby granted, as shall be necessary for extinguishing fires, and for all ordinary household purposes, under such regulations of the city council as may be essential for the preservation of the purity of the said water.

Penalties for
misdemeanors,
and injuries to
water works, etc.

SECT. 14. If any person or persons shall wilfully or maliciously divert the water, or any part thereof, of any of the ponds, streams, or water-sources, which shall be taken by the city pursuant to the provisions of this act, or shall corrupt the same, or render it impure, or destroy or injure any dam, aqueduct, pipe, conduit, hydrant, machinery, or other property, held, owned, or used, by the said city, by the authority and for the purposes of this act, such person or persons shall forfeit and pay to the said city three times the amount of the damages that shall be assessed therefor, to be recovered by any proper action. And such person or persons may, moreover, on indictment and conviction of either of the wilful and malicious acts aforesaid, be punished by fine not exceeding one thousand dollars, and imprisonment not exceeding one year.

Extinguishment
of fires.

1865, 144.

SECT. 15. The said city of Charlestown is also authorized to supply with water for the extinguishment of fires or for other purposes, the cities of Chelsea and Boston, and the towns through which the line of aqueduct may pass, and for this purpose may erect and maintain such structures as may be requisite and necessary therefor: *provided*, that such supply to Boston shall not deprive the towns on the line of the aqueduct of a sufficient supply of water.

Proviso.

Hydrants.

Proviso.

1866, 212.

SECT. 16. The said city of Charlestown shall erect and maintain proper hydrants at such points along the line of the aqueduct as the selectmen of the towns of Somerville and Medford shall direct: *provided, however*, the said city of Charlestown shall not be required to erect and maintain such hydrants at points nearer together than five hundred feet; and said towns of Somerville and Medford may at all times draw water from said hydrants without charge therefor, for the extinguishment of fires, under such regulations as the city of Charlestown may, from time to time, establish under authority of this act; and the rates of water supplied to the inhabitants of said towns of Somerville and Medford for other purposes than the extinguishment of fires, as provided in section fifteen, shall not exceed the rates charged for like uses in said city of Charlestown, and the payment or rental for the use of such water shall be made and collected in the same manner as herein before provided for the water distributed in the said city of Charlestown. In case the pipes for distributing said water shall be laid without expense to said city of Charlestown, such charge or rental shall be made for the use of said water as may be agreed upon by and between said towns respectively and said city of Charlestown.

Act to be ac-
cepted by legal
voters.

SECT. 17. The provisions of this act shall be void unless submitted to and approved by the voters of the city of Charlestown, at meetings held simultaneously for that purpose in the several wards, within three years from the passage of this act, upon notice duly given, at least seven days before the time of holding said meetings.¹

SECT. 18. This act shall take effect from and after its passage.

March 28, 1861.

[1868, 9; 1864, 176; 1865, 135, 144; 1866, 212; 1870, 216; 1871, 159; 1872, 85; 1874, 400; 1875, 202.]

¹ Approved by the voters of Charlestown, September 10, 1861.

1861. — CHAPTER 142.

AN ACT IN RELATION TO STREETS ON THE BACK BAY.

Be it enacted, etc. :

The various streets and ways on the Back Bay, in the city of Boston, and on the northerly side of the Mill-dam, as laid down on the general plan thereof, accompanying the fifth annual report of the commissioners on the Back Bay, and dated Boston, January twenty-first, eighteen hundred and fifty-seven, and deposited in Suffolk registry of deeds, August thirty-first, eighteen hundred and fifty-eight, with such modifications and alterations as have been made by the commissioners, shown on the plan recorded in Suffolk registry of deeds, liber seven hundred and eighty-eight, folio one hundred and fifty-nine, are hereby ratified and confirmed; and the said commissioners shall have the general control of all streets, ways, and squares, on the land of the commonwealth, and may offer them, or any portion of them, for acceptance by the city of Boston, on such terms and conditions as they may deem expedient, subject to the approval of the governor and council: *provided*, that nothing herein contained shall be construed to authorize the commissioners on the Back Bay to postpone or modify the operation of the fourth section of chapter one hundred and fifty-four of the acts of the year one thousand eight hundred and fifty-nine.

Plan confirmed.

Commissioners, powers of.

Proviso.

April 6, 1861.

1861. — CHAPTER 220.

AN ACT IN AMENDMENT OF THE "ACT FOR SUPPLYING THE CITY OF BOSTON WITH PURE WATER."

Be it enacted, etc. :

SECTION 1. The fifteenth section of the act entitled "an act for supplying the city of Boston with pure water," passed the thirtieth day of March in the year one thousand eight hundred and forty-six, is hereby amended by adding thereto the following words, viz. : "or by confinement to hard labor in the state prison for a term not exceeding ten years."

Penalty for diverting water increased.

SECT. 2. This act shall take effect upon its passage.

May 23, 1861.

[1846, 167.]

1862. — CHAPTER 64.

AN ACT CONCERNING THE HARBOR-MASTER OF THE PORT OF BOSTON.

Be it enacted, etc. :

SECTION 1. The harbor-master for the port of Boston shall hereafter be appointed by the mayor and aldermen of the city of Boston, instead of the city council of said city; and he shall continue to have all the powers, and be subject to all the duties, liabilities, and obligations, which now appertain by law to the said office.

Harbor-master, how appointed.

1847, 234.

SECT. 2. The city council of the city of Boston may make and ordain all such ordinances, rules, orders, and regulations, for prescribing the duties, and controlling the action of the said harbor-master, as they shall deem expedient: *provided*, such ordinances, rules, orders, and regulations are not repugnant to law; and they may, if they shall deem it expedient, provide by ordinance for adding to the

City council may prescribe duties.

Proviso.

duties of the said harbor-master the duties of captain of the harbor police.

Repeal.

SECT. 3. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

When to take effect.

SECT. 4. This act shall take effect as soon as the same shall be accepted by the city council of the city of Boston.¹

March 11, 1862.

[1837, 229; 1848, 814; 1882, 216; P.S. 69, §§ 23-34; 1884, 173.]

1862. — CHAPTER 65.

AN ACT IN RELATION TO THE REBUILDING AND FUTURE SUPPORT OF
"CAMBRIDGE GREAT BRIDGE."

Be it enacted, etc. :

Cambridge and Brighton to rebuild.

SECTION 1. The city of Cambridge, and the inhabitants of the town of Brighton, are hereby authorized and required to rebuild the "great bridge," over Charles river, between the city of Cambridge and the town of Brighton, in a substantial and proper manner; the same to be made of the width of twenty-eight feet, with a draw in the centre thereof, at an equal distance from each abutment, of not less than thirty-two feet in width, and with the necessary and proper draw-piers, one above and one below said bridge. The expense incurred in such rebuilding of the bridge and piers shall be borne by said city of Cambridge and said town of Brighton in proportion to the respective valuations of said city and town; but all the additional expense incurred in deepening the channel below said bridge, so as to admit of placing the draw in the centre of said bridge, shall be borne equally by said city and town.

Dimensions and draws.

Expense.

Dividing line of towns.

SECT. 2. The bridge, when it shall have been rebuilt as aforesaid, shall be divided by a line along the opening in the middle of said draw, at an equal distance from each abutment, and said line shall forever be the dividing line between Cambridge and Brighton at that point.

Maintenance and repairs by towns, defined.

SECT. 3. So much of said bridge and draw as shall lie southwesterly of said dividing line, together with the most southerly pier, shall be forever supported, maintained, and repaired, and the southwesterly half of the draw shall be raised by, and at the expense of, said town of Brighton; and so much of said bridge and draw as shall lie north-easterly of said dividing line, together with the most northerly pier, shall be forever supported, maintained, and repaired, and the north-easterly half of the draw shall be raised by, and at the expense of, said city of Cambridge.

Channel may be deepened.

SECT. 4. For the purpose of placing the draw of said bridge in the centre of the same, as above provided, said city and town are authorized and empowered to deepen the channel in said river, so far as may be necessary for that purpose.

Repeal.

SECT. 5. All acts, or parts of acts, inconsistent with the provisions of this act, are hereby repealed.

SECT. 6. This act shall take effect upon its passage.

March 11, 1862.

¹ Accepted April 20, 1878.

1862. — CHAPTER 73.

AN ACT CONCERNING THE ATTACHING OR MOORING OF RAFTS TO ANY BRIDGE, PIER, OR WHARF, IN THE HARBOR OF BOSTON.

Be it enacted, etc. :

SECTION 1. Every person who shall attach or moor any raft, or collection of spars, logs, piles, timber, or lumber, to any bridge, pier, or wharf, in the harbor of Boston, longer than ten hours, without the written consent of the owner thereof, shall, for every such offence, forfeit and pay to such owner, a sum of not less than twenty-five dollars, and five dollars for every successive day during which such attachment or mooring shall be so continued; and shall be further liable for all damages to such bridge, pier, or wharf, caused by such attachment, or mooring, or any continuance thereof, to be recovered by an action of tort.

Penalty for attaching rafts, logs, etc., to bridge, pier or wharf, without consent of owner.

Further liability.

SECT. 2. Every person who shall attach or moor any raft, or collection of spars, logs, piles, timber, or lumber, to any public bridge, in the harbor of Boston, for more than ten hours, without the permission in writing of the mayor of Boston, shall be liable to a penalty of not less than twenty-five dollars, and five dollars for every succeeding day during which such attachment or mooring shall be so continued; to be recovered by complaint before the police court¹ of the city of Boston.

Penalty for attaching to public bridge more than ten hours without permit from mayor.

March 19, 1862.

1862. — CHAPTER 96.

RESOLVE IN RELATION TO STREETS AND DRAINAGE ON THE BACK BAY.

Resolved, That the commissioners on public lands be, and they hereby are, authorized to make such modifications of existing agreements in relation to the drainage of the Back Bay territory, so called, situated between the Mill-dam and Tremont street, in Boston, as may be agreed upon by the city of Boston and all other parties to such agreements, subject to the approval of the governor and council; and they may authorize the making of such new streets and ways, and the discontinuance of such streets and ways as have already been made or provided for, on the territory of the Boston Water-Power Company, and may connect any such streets with the streets on the commonwealth's territory, as they may deem expedient, and upon such terms and conditions as they may determine upon, subject to the approval of the governor and council; but before proceeding to act on this resolve, the commissioners shall give public notice by advertisement in two newspapers published in Boston, of the time and place at which all parties having any objections to such changes, or the laying out of such streets, may be heard.

Drainage of Back Bay territory. 1866, 68. Back Bay Agreements, p. 78.

April 30, 1862.

1863. — CHAPTER 9.

AN ACT IN AMENDMENT OF "AN ACT FOR SUPPLYING THE CITY OF CHARLESTOWN WITH PURE WATER."

Be it enacted, etc. :

SECTION 1. The city of Charlestown is hereby authorized, for the purpose of constructing and repairing the works authorized by "an act for supplying the city of Charlestown with pure water," approved

Mystic pond, city authorized to lower waters of.

¹ Now municipal court.

Proviso.

on the twenty-eighth day of March, in the year eighteen hundred and sixty-one, temporarily to lower the waters of Mystic pond, by erecting temporary tide-gates across Mystic river, at such times and in such manner as may be necessary for said purpose: *provided*, that such tide-gates shall not be erected at any point on said river below Alewife brook, nor allowed at any time to continue longer than shall be absolutely required for the construction or repair of said works, and that said city shall be liable for all damages occasioned by its proceedings under this act, to be recovered by the party sustaining the same, in the manner provided in the act above referred to.

Governor and council may cause removal of tide-gates.

SECT. 2. If at any time the governor and council shall deem such temporary tide-gates across the Mystic river prejudicial to the harbor of Boston, they shall have power to order said tide-gates to be removed within forty-eight hours, and, if not so removed, the governor and council may cause the same to be removed at the expense of said city of Charlestown.

Repeal.

SECT. 3. Such parts of any existing laws as are inconsistent herewith are hereby repealed.

SECT. 4. This act shall take effect upon its passage.

February 5, 1863.

[1861, 105.]

1864. — CHAPTER 123.

AN ACT CONCERNING THE CITY OF CHARLESTOWN.

Be it enacted, etc. :

Acts of city respecting certain highways confirmed.

The action of the city of Charlestown on the twenty-ninth day of June, in the year eighteen hundred and sixty-three, in the laying out and extension of Richmond street, and the widening of Chapman street, whereby certain lands of the commonwealth have been taken for the streets aforesaid, is hereby ratified and confirmed, so far as the taking of the lands of the commonwealth is concerned: *provided*, that the said city shall remove and reconstruct the fences to the satisfaction of the inspectors of the state prison: and *provided, further*, that the city of Charlestown shall file with the secretary of the commonwealth a copy of the record and plan of the said laying out and widening.

Proviso.

File of plan.

March 30, 1864.

1864. — CHAPTER 128.

AN ACT CONCERNING THE OVERSEERS OF THE POOR IN THE CITY OF BOSTON.

Be it enacted, etc. :

Title established.

Functions, powers, and duties defined.

SECTION 1. The overseers of the poor in the town of Boston, incorporated on the twenty-fifth day of April, in the year one thousand seven hundred and seventy-two, shall be known and called by the name of "The Overseers of the Poor in the City of Boston," and as such shall continue to hold and possess all the property, and be entitled to all the rights and privileges, and be subject to all the duties, liabilities, and obligations, which now belong or appertain to said corporation, whether as successors to the corporation above mentioned, or as successors of the corporation or body politic incorporated by the forty-fourth chapter of the acts of the year eighteen hundred and two, by the title of "The Trustees of John Boylston's

Charitable Donations, for the Benefit and Support of aged Poor Persons, and of Orphans and Deserted Children," including the faithful administration and execution of all the trusts, bequests, legacies, endowments, and charities, confided to them, which have been heretofore, or shall hereafter be, accepted by them.

SECT. 2. The said overseers of the poor in the city of Boston shall consist of twelve persons, residents of the city, and be elected by the city council of said city of Boston, by concurrent vote, in the following manner, within sixty days next after this act shall take effect: the said city council shall elect four persons to hold office until the first Monday in April, in the year eighteen hundred and sixty-five, and until other persons are elected in their places; four persons to hold their office until the first Monday in April, in the year eighteen hundred and sixty-six, and until others are elected in their places; and four persons to hold their office until the first Monday in April, in the year eighteen hundred and sixty-five, and until others are elected in their places; and thereafterwards, annually, on the first Monday in February, or within sixty days thereafter, four persons to hold their office for the term of three years from and after the first Monday in April next following such elections, respectively, and until other persons are elected in their places. Vacancies occurring in said corporation, from any cause, may be filled by said city council, in like manner, at any time; and the person elected to fill any vacancy shall hold his office during the term for which his predecessor was elected. The city council shall also have power, at any time, for cause, to remove either of said overseers from office.

Board to consist of twelve persons elected by city council.

Vacancies, how filled.

May remove for cause.

SECT. 3. The persons so first elected as overseers of the poor in the city of Boston, shall meet and organize on the first Monday of the month succeeding their election, and those thereafterwards elected shall meet for that purpose on the first Monday in April of each year. They shall choose a chairman from their own number, and a treasurer, secretary, and such subordinate officers as they may deem expedient, and shall define their duties and fix their respective salaries.

Organization.

SECT. 4. Said overseers shall render such accounts and reports of their expenditures, acts, and doings, as may be required by the city council, and the same shall be audited and allowed, if according to law, in such manner as the city council shall from time to time determine.

Accounts and reports.
R.O. c. 28,
§§ 4, 5.

SECT. 5. The present members of the corporation shall hold their office until others are elected in their places, under the provisions of this act.

Present board.

SECT. 6. No one of said overseers, nor any individual in their employ, shall be interested in a private capacity, directly or indirectly, in any contract or agreement for labor or for articles furnished by direction of said overseers, unless the same be expressly authorized by a recorded vote of the board.

Private interest in contracts forbidden

SECT. 7. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Repeal.

April 2, 1864.

[1772, 3; 1802, 44; 1813, 171; 1868, 183.]

1864. — CHAPTER 160.

AN ACT CONCERNING THE CONSTRUCTION OF SIDEWALKS IN THE CITY OF CHARLESTOWN.

Be it enacted, etc.:

SECTION 1. Whenever any public street, or any part of the same, in the city of Charlestown, is paved or macadamized, or covered

Abutters shall construct sidewalks in streets

paved or macadamized by order of city.
98 Mass. 533.

Upon refusal, city may construct, and have lien for costs.

May sell lot for expense.

Sale, how conducted.

Redemption of property.

Proviso.

Proviso.

Repeal of 1859, 165, § 1.

Not to affect rights or pending action.

with gravel as a substitute therefor, or when such paving or substitute shall have been ordered by the city council of said city, the owners of abutting lots of land or real estate upon such street or part of a street, shall, within thirty days after notice from the board of mayor and aldermen, so to do, construct, at their own expense, and to the acceptance of the board of mayor and aldermen, a sidewalk against their respective estates, with brick or flat-stone, supported on the outer edge thereof with hammered edgestone; and if any abutter shall refuse or neglect to construct such sidewalk against his lot for the space of thirty days after a written notice has been served upon him, his tenant, agent, or attorney, by order of said board of mayor and aldermen, said city may construct the same, and the expense thereof shall constitute a lien upon the abutting lot for one year after such expense was incurred; such expense, with incidental costs and charges, may be levied by sale of the whole or any part of such abutting lot, if such expense, costs, and charges, be not paid within three months after a written demand for payment of the same, made by the city treasurer upon the owner of the lot, his tenant, agent, or attorney; such sale to be conducted in like manner, and upon like notices, as sales of real estate for the non-payment of taxes; and when any estate or any part of the same is so sold, the owner thereof shall have the same right and the like remedies for redeeming the same, as is provided by law for the redemption of real estate sold for non-payment of taxes: *provided, however*, that when the owner of any abutting lot on any such street, shall, in the judgment of the mayor and aldermen, be unable to construct such sidewalk, they may cause the same to be constructed at the expense of the city: and, *provided, also*, that they may, in their discretion, allow the owners of vacant lots on any such street, to construct their sidewalks with plank and timber, to the acceptance of the board of mayor and aldermen, which shall be removed and the edgestone and brick, or flat-stone, sidewalk substituted therefor, when said board shall so order.

SECT. 2. The first section of chapter one hundred and sixty-five of the acts of the year eighteen hundred and fifty-nine, entitled "an act to regulate sidewalks in the city of Charlestown," is hereby repealed, but such repeal shall not affect any rights now accrued, or any action now pending.

SECT. 3. This act shall take effect upon its passage.

[1824, 16.]

April 20, 1864.

1864. — CHAPTER 176.

AN ACT IN ADDITION TO "AN ACT FOR SUPPLYING THE CITY OF CHARLESTOWN WITH PURE WATER."

Be it enacted, etc. :

City may issue additional water bonds.

Appropriation of proceeds.

SECTION 1. The city council of the city of Charlestown is hereby authorized to issue water bonds of the city of Charlestown to an amount not exceeding two hundred thousand dollars, in addition to the amount now authorized by the eleventh section of chapter one hundred and five of the acts of the year eighteen hundred and sixty-one. The bonds hereby authorized shall be issued and the proceeds thereof appropriated, in accordance with, and subject to, the provisions and conditions of said eleventh section.

SECT. 2. This act shall take effect upon its passage.

[1861, 105.]

April 25, 1864.

1864. — CHAPTER 225.

AN ACT AUTHORIZING THE ESTABLISHMENT OF THE BOSTON ASYLUM
FOR INEBRIATES.*Be it enacted, etc. :*

The city of Boston is hereby authorized to establish and maintain at Deer Island, or elsewhere within the limits of said city, to be under the charge of the board of directors for public institutions, an asylum to be called the Boston Asylum for Inebriates, to which persons requiring the benefits of such an institution may be admitted as boarders, upon such terms and conditions as the said board of directors may determine, subject to the approval of the city council of Boston. .

City of Boston to establish.
Supervision.
Terms of admission.

May 11, 1864.

1864. — CHAPTER 271.

AN ACT IN FURTHER ADDITION TO "AN ACT FOR SUPPLYING THE CITY
OF BOSTON WITH PURE WATER."*Be it enacted, etc. :*

SECTION 1. The city of Boston shall have the right to maintain its water pipes, as the same are now laid, in the mill-dam and other lands of the commonwealth in and near said city, subject to the provisions of this act: *provided*, that any person, whose property is injured thereby, shall have his damages ascertained and paid in the manner provided in the several acts to which this is in addition: and *provided, further*, that if, at any time hereafter, the legislature shall order a draw to be made through the said mill-dam, or other lands on the line of said pipes, for the purposes of navigation, the city of Boston shall so adapt its said pipes, at the locality of the draw, as not to interfere with a free passage of boats and vessels through such draw.

City may maintain pipes on mill-dam and other lands.
Proviso.
Proviso.

SECT. 2. Said city may enter upon and dig up the ground in said mill-dam and other lands, when necessary for the purpose of repairing or replacing said pipes: *provided, however*, that said mill-dam and lands shall be restored by said city to as good order and condition as the same are in before such digging is commenced; and that the work shall be done in such manner, and with such care, as not to render any road, street, or way, in which said pipes are laid, unsafe or unnecessarily inconvenient to the public travel thereon.

City may enter and dig up lands.
Proviso.

SECT. 3. The city of Boston shall at all times save harmless and indemnify the commonwealth, and any city or town which may become liable to keep in repair any road, street, or way, aforesaid, against all damages which may be recovered against them respectively, and shall reimburse to them respectively all expenses which they shall reasonably incur by reason of any defect or want of repair in such road, street, or way, caused by the maintenance, repairing or replacing of said pipes, or by reason of any injury to persons or property caused by any defect or want of repair in said pipes: *provided*, that said city shall have due and seasonable notice of all claims for such damages or injury, and opportunity to make a legal defence thereto.

Indemnity to commonwealth and towns from damages sustained by defects in highways.
Proviso.

SECT. 4. This act shall take effect upon its passage.

May 13, 1864.

[1846, 187; 1849, 187; 1865, 181.]

1864. — CHAPTER 315.

AN ACT FOR THE PROTECTION OF THE OUTER HARBOR OF THE CITY OF BOSTON.

Be it enacted, etc. :

City may raise
\$150,000 for sea-
walls and works
on islands.

Plan approved
by governor and
council.

Amount ex-
pended, how re-
imbursed to
city.

SECTION 1. The city of Boston is hereby authorized to raise, by taxation or otherwise, a sum not exceeding one hundred and fifty thousand dollars, and to expend the same in the construction of sea-walls and other necessary works on Great Brewster island, Gallop's island, and Deer island, in Boston harbor, in order to protect said islands against the action of the sea, and prevent further injury to said harbor by the washing thereof of the earth from said islands. The plans for the construction of said works shall be submitted to, and approved by, the governor and council, before the same are commenced.

SECT. 2. The amount expended by said city in accordance with the provisions of this act shall be reimbursed to it from the first net proceeds or receipts from sales of the flats belonging to the commonwealth in said harbor, not already appropriated for specific purposes.

SECT. 3. This act shall take effect upon its passage.

May 14, 1864.

1865. — CHAPTER 131.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO BUILD AN ADDITIONAL RESERVOIR.

Be it enacted, etc. :

City council
may direct con-
struction.

May take cer-
tain lands in
Newton, Brigh-
ton, and Brook-
line.

Proviso.

May lay pipes
from reservoir to
pipes in Brook-
line.

May secure
lands.

May cross
water-course or
way.

City to be re-
sponsible for
damages by rea-
son of defect
caused in ways.

SECTION 1. The city of Boston is hereby authorized, by and through the agency of the Cochituate water board therein, or by and through any other agency which shall be established therefor by the city council of said city, to construct and maintain an additional reservoir for receiving, holding, and distributing, water; and for this purpose, may take and hold, by purchase or otherwise, any lands or real estate, not exceeding two hundred acres, in the towns of Newton, Brighton, and Brookline, and lying between the Air Line railroad, the present line of the said city's aqueduct and Beacon street on the south, Rockland and Brighton streets on the east, South street on the north, and a street leading from said South street to said Beacon street on the west: *provided, however*, that no part of the tract of land comprising the Evergreen cemetery, in the town of Brighton, shall be so taken and held, otherwise than by purchase.

SECT. 2. The city of Boston may also, by and through the same agency, lay and maintain one or more suitable lines of pipes from the said reservoir to a convenient point in its line of pipes leading from its reservoir in said Brookline to said city; and may take and hold, by purchase or otherwise, such lands or real estate as may be necessary therefor; and may carry and conduct the said pipes over or under any water-course, or any street, turnpike-road, railroad, highway or other way, in such manner as not to obstruct or impede travel thereon; and may enter upon and dig up such road, street, or way, for the purpose of laying the said pipes and for maintaining and repairing the same.

SECT. 3. The city of Boston shall at all times save harmless and indemnify any city or town which may become liable to keep in repair any road, street, or way, aforesaid, against all damages which may be recovered against them, respectively, and shall reimburse to them, respectively, all expenses which they shall reasonably incur by

reason of any defect or want of repair in such road, street, or way, caused by the maintenance, repairing, or replacing, of said pipes, or by reason of any injury to persons or property caused by any defect or want of repair in said pipes: *provided*, that said city shall have due and reasonable notice of all claims for such damages or injury, and opportunity to make a legal defence thereto.

Proviso.

SECT. 4. The city of Boston shall be liable to pay all damages that shall be sustained by any persons in their property, by the taking of any land or real estate as aforesaid, or by any of its doings under this act; and in regard to such taking, and the ascertainment and payment of all such damages, the city of Boston, and all persons claiming damages, shall have all the rights, immunities, and remedies, and be subject to all the duties, liabilities, and obligations, which are provided in the one hundred and sixty-seventh chapter of the acts of the year one thousand eight hundred and forty-six, the one hundred and eighty-seventh chapter of the acts of the year one thousand eight hundred and forty-nine, and the three hundred and sixteenth chapter of the acts of the year one thousand eight hundred and fifty.

Liability for damages to private property.

Rights and remedies, citizens and city to be subject to by provisions of existing acts.

SECT. 5. For the purpose of defraying all the costs and expenses of such lands or real estate as shall be taken, purchased, or held, for the purposes mentioned in this act, and of constructing said reservoir, laying said pipes, and doing all other things incident thereto, the said city council shall have authority to issue, from time to time, notes, scrip, or certificates of debt, to such an amount as may be necessary, and in such form, on such length of time, and bearing such rate of interest, not exceeding six per cent. per annum, as they shall deem expedient.

City council may issue debt certificates to defray expenditures.

SECT. 6. This act shall take effect upon its passage.

April 4, 1865.

[1846, 117; 1849, 187; 1850, 316; 1864, 271.]

1865. — CHAPTER 135.

AN ACT IN ADDITION TO "AN ACT FOR SUPPLYING THE CITY OF CHARLESTOWN WITH PURE WATER."

Be it enacted, etc.:

SECTION 1. The city council of the city of Charlestown is hereby authorized to issue water bonds of the city of Charlestown to an amount not exceeding two hundred and fifty thousand dollars, in addition to the amount now authorized by the eleventh section of chapter one hundred and five of the acts of the year eighteen hundred and sixty-one, and by chapter one hundred and seventy-six of the acts of the year eighteen hundred and sixty-four. The bonds hereby authorized may be issued and the proceeds thereof appropriated in accordance with and subject to the provisions and conditions of said eleventh section, except so far as the same are changed or modified by this act.

City council may issue additional water bonds.

Conditions.

SECT. 2. The water bonds of the city of Charlestown which may hereafter be issued by virtue of this act, or of any previous act or acts, may be redeemable at a period of time not less than one nor more than fifty years from and after the issue of such bonds, respectively. And the city council of said city, may, for the purpose of meeting the payments of any of said water bonds, or of the interest which may accrue upon any of said bonds, make such further issue of water bonds as may be necessary therefor: *provided*, that the

May be redeemable in one to fifty years.

May issue bonds for payment of bonds or interest.

Proviso: limitation.

issue of bonds under this act shall not exceed two hundred and fifty thousand dollars.

SECT. 8. This act shall take effect upon its passage.

April 8, 1865.

[1861, 105; 1864, 176.]

1865. — CHAPTER 144.

AN ACT TO AUTHORIZE THE CITY OF CHELSEA TO PURCHASE A SUPPLY OF WATER FROM THE CITY OF CHARLESTOWN, AND TO ISSUE SCRIP IN PAYMENT THEREFOR.

Be it enacted, etc.:

May purchase under act of '61 and maintain works.

City council may issue water bonds redeemable in one to fifty years.

May sell at public or private sale.

May make further issue for payment of scrip or interest.

Proviso.

Construction over river to be directed by commissioners on harbors and flats.

SECTION 1. The city of Chelsea is hereby authorized to purchase a supply of water from the city of Charlestown, agreeably to the provisions of section fifteen of chapter one hundred and five of the acts of the year eighteen hundred and sixty-one, and may erect and maintain such works and structures as may be requisite and necessary for the introduction of water from said city of Charlestown to the said city of Chelsea, and the distribution thereof in said city of Chelsea; and for the purpose of defraying the costs and expenses of such introduction and distribution, the city council of Chelsea shall have authority to issue from time to time, scrip, notes, or certificates of debt, to be denominated water bonds of the city of Chelsea, to an amount not exceeding two hundred thousand dollars, bearing interest not exceeding six per centum per annum, which shall be redeemable at a period of time not less than one nor more than fifty years from and after the issue of said scrip, notes, or certificates, respectively; and the said city council may sell the same, or any part thereof, from time to time, at public or private sale, for the purpose aforesaid, on such terms and conditions as the said city council shall judge proper; and the said city council may, for the purpose of meeting payments of such interest as may accrue upon any certificate of debt, make such further issue of scrip, notes, or certificates of debt, as may be necessary therefor: *provided*, that the whole issue of scrip, notes, or certificates of debt, under this act shall not exceed two hundred thousand dollars.

SECT. 2. The work of laying pipes and any other structures necessary to carry water from said city of Charlestown across Chelsea bridge to said city of Chelsea, shall be under the direction of the commissioners on harbors and flats of the commonwealth.

SECT. 3. This act shall take effect upon its passage.

April 11, 1865.

[1861, 105.]

1865. — CHAPTER 159.

AN ACT TO AUTHORIZE THE LAYING OUT AND WIDENING OF A STREET FROM MILK STREET TO BROAD STREET, IN THE CITY OF BOSTON.

Be it enacted, etc.:

Mayor and aldermen may lay out street.

SECTION 1. The mayor and aldermen of the city of Boston are hereby authorized to widen and lay out, as a street, the line of street extending from Milk street to Broad street, in the said city, nearly parallel with Pearl street, and now known by the names of Oliver street, Washington square, and Belmont street, to take sufficient land for the same, to grade the same, and to assess the cost of such widening and grading, including damages for land and buildings

taken for such widening, upon estates abutting upon said widened street, as hereinafter provided. But the determination so to widen and lay out said street shall be made by the mayor and aldermen, and recorded within one year from the passage of this act.

Decision to act to be made and recorded within one year.

SECT. 2. The said street shall be made not less than fifty feet wide, and shall be so graded that the rise or fall shall in no place exceed two feet and a half in one hundred feet of length.

Width and grade of street.

SECT. 3. In making the estimate of the cost aforesaid, for which the assessment herein provided is to be laid, the mayor and aldermen shall estimate the damages sustained by any person or persons, by the taking of land for the said widening, including the value of the whole of the buildings on the land, any part of which shall be so taken, deducting therefrom, however, the value of the materials to be removed, and of the buildings, if any, which will remain standing; but no person shall be entitled to claim further damages for the cutting off of such buildings, or injury to the same; and, in estimating the value of the land cut off by the said widening, the land so cut off shall be estimated at its value before the widening, and such estimate shall not include the increased value occasioned merely by the widening, laying out, and grading, of the said street.

Mayor and aldermen to estimate damages to persons.

Decision to be final.
Estimation of value, basis.

SECT. 4. The damages estimated according to the preceding section, shall be paid to the persons entitled thereto, in the same manner, and upon the same conditions, as is provided by law in other cases of land taken for widening streets in the county of Suffolk.

Payment of damages.

SECT. 5. Buildings and materials remaining upon the land, under the adjudication provided in section three, shall be taken care of by the owner thereof; and if such owner, after due notice so to do, by said mayor and aldermen, neglects or fails to take sufficient care thereof, said mayor and aldermen may take such care of the same as the public safety demands, at the expense of the owner; and if they shall adjudge a removal thereof to be necessary for the public security or necessity, they may remove the same at the expense of the owner, or they may sell the same, after five days' notice, at public auction, and hold the net proceeds of such sale for the benefit of the owner.

Property remaining to be cared for by owner or at his cost.

Removal may be made at expense of owner.

SECT. 6. The whole expense of the said widening, including the damages mentioned in the third section of this act, and the net expense of grading the whole widened street, after deducting the estimated net proceeds of the earth and gravel removed, shall be assessed upon all the estates abutting upon the said widened street, in proportion to their value, as they shall be appraised by the mayor and aldermen, when the improvements have been made.

Assessment of expenditure for widening, to be upon abutting estates.

106 Mass. 89.

SECT. 7. All assessments made under this act shall constitute a lien on the real estate assessed, for one year after they are laid, and may, together with all incidental costs and expenses, be levied by sale thereof, if the assessment is not paid within three months after a written demand of payment, made either upon the person assessed, or upon any person then occupying the estate, or posted upon the premises; such sale to be conducted in like manner as sales for the non-payment of taxes.

Shall constitute lien for one year, and may be levied by sale in three months after demand.

SECT. 8. Any party aggrieved by the doings of the mayor and aldermen, under this act, shall have the like remedy by petition for a jury, and with the same limitations as to the time of bringing such petition, as in other cases of widening or altering streets in the county of Suffolk. And any person aggrieved by the estimate made by the mayor and aldermen, under the tenth section of this act, may have the same assessed by a jury in the same manner as damages for the taking of land for highways may be assessed.

Party aggrieved may have jury.

SECT. 9. The city of Boston, at its own expense, shall provide a

Sewer, sidewalks, and

bridges, city to provide.

Estate owner may surrender property to city.

Mayor and aldermen to estimate value, owner to convey and city to pay.

Property not used may be sold.

Sum paid by city to be assessed upon abutters.

suitable common sewer, and proper sidewalks, for the said street, pave the said street, as widened. and build the necessary bridges over it.

SECT. 10. Any person owning any of the said estates abutting on the said line of streets mentioned in the first section, at any time before the estimation of the damages, according to the third section of this act, may, instead of the provisions in section third, elect to surrender all of the said estate to the city of Boston. The mayor and aldermen of the said city shall thereupon estimate the value of the whole of the said abutting estate, with the buildings thereon, and the said owner shall convey the same to the said city, and the said city shall pay him therefor the value so estimated. And the said city shall sell at public auction all the building materials and buildings, and the remaining portion of said estate not used in said widening and grading, and the net proceeds thereof shall be applied towards the expenses of said widening and grading. And the estimated value of said estate, so paid by said city, shall be assessed upon the abutters, as provided in the sixth section of this act, instead of the damages estimated according to the said third section.

SECT. 11. This act shall take effect upon its passage.

April 27, 1865.

1865. — CHAPTER 192.

AN ACT CONCERNING THE GRANITE BRIDGE CORPORATION.

Be it enacted, etc. :

County commissioners may lay out, as highway.

Allowance for damages.

Reconstruction of bridge by commissioners.

Shall provide draw-tenders until completed.

Expense, how paid.

Upon notice of completion, towns to be liable for care and maintenance.

SECTION 1. The county commissioners for the county of Norfolk may, with the assent of the Granite Bridge Corporation, lay out the turnpike, ways, bridge, and draw, belonging to said corporation, as a common highway, in accordance with the provisions of this act, and have and exercise the same powers relating thereto as are now had and exercised by them in the laying out of turnpikes as common highways; excepting that in the allowance and payment of damages under the provisions of the fifteenth section of the sixty-second chapter of the general statutes, so much of said section as requires the towns through which said ways pass to refund the same shall not apply.

SECT. 2. In case said commissioners shall proceed under section first to lay out said turnpike, bridge, and draw, as a common highway, they shall cause said bridge to be put in substantial repair, and so far reconstruct the same that it shall be safe and convenient for travel, preserving in the place where now located a draw and passage-way for vessels of at least the width now required by law; and said commissioners from the time said turnpike, bridge, and draw, are laid out and established as a common highway until they shall have given the notice hereinafter provided, shall provide draw-tenders for said draw, and other necessary agents, and be subject to the duties and liabilities imposed on said corporation by the third section of chapter one hundred and fifty-four of the acts of the year eighteen hundred and thirty-seven; and the expenses and liabilities incurred under this section shall be paid from the county treasury.

SECT. 3. Upon due notice given by said commissioners to the clerk of the towns in which said bridge lies, that said bridge has been reconstructed and is in substantial repair, so that the same is safe and convenient for travel, such towns shall each thenceforth be responsible for the care, maintenance, and repair, of the portion of said bridge lying on its own side of the same and extending to the centre of the draw, and they shall, at their joint expense, provide

draw-tenders for said draw, and other necessary agents; and said towns shall be jointly liable to raise the draw and afford all necessary and proper accommodation to vessels having occasion to pass the same by day or night, and shall keep a sufficient light for vessels at said draw; and if any vessels shall be unreasonably delayed or hindered in passing said draw by the negligence of said towns or their agents in discharging the duties enjoined by this act, the owners or masters of such vessels may receive reasonable damages therefor of said towns in an action of tort before any court proper to try the same.

Draw-tenders and agents to be provided at joint expense.

Accommodations.

Damages for unreasonable detention of vessels.

SECT. 4. This act shall take effect upon its passage.

May 4, 1865.

1866. — CHAPTER 36.

AN ACT CONCERNING SEWERS AND DRAINS IN THE CITY OF ROXBURY.

Be it enacted, etc. :

SECTION 1. The board of aldermen of the city of Roxbury may lay, make, and maintain, in said city, all such main drains and common sewers as the city council shall adjudge to be necessary for the public convenience or the public health, and may repair the same from time to time whenever it is necessary; and said city and the citizens thereof shall have the same rights, and be subject to the same liabilities, as if the same had been laid, made, or maintained, under the provisions of chapter forty-eight of the general statutes, except as hereinafter provided.

Aldermen may lay and maintain as council shall adjudge.

SECT. 2. When land is taken by virtue of the preceding section, the city council shall proceed in the manner required by law in taking land for public highways or streets; and persons suffering damage in their property shall have the rights and remedies for the ascertainment and the recovery of the amount of such damage provided by law for the ascertainment and recovery of damages for land taken in said city of Roxbury for public highways or streets.

Proceedings for taking land.

Private damage, assessment, and recovery.

SECT. 3. This act shall take effect upon its passage.

February 16, 1866.

[1866, 69.]

1866. — CHAPTER 68.

AN ACT TO CONFIRM AN INDENTURE CONCERNING LANDS AND DRAINAGE IN THE BACK BAY.¹

Be it enacted, etc. :

SECTION 1. An indenture tripartite, between the commonwealth, the Boston Water-Power Company, and the city of Boston, made and concluded on the thirty-first day of December, in the year of our Lord eighteen hundred and sixty-four, and approved by the governor and council, relating to the laying out of lands and the drainage thereof, in the Back Bay, is hereby confirmed; and the commissioners on public lands are authorized to make such alterations in the laying out of lands and streets as may conform thereto: *provided*, that no change shall be made by said commissioners in the width of any street on which land has been sold by the commonwealth, without the consent of the parties to whom such land has been sold, or by whom it may be owned at the time such change is made.

Indenture of State, city of Boston, and Water-Power Co., made Dec. 1864, confirmed.

Commissioners on public lands may change lines of lands and street. Proviso.

¹ See Back Bay Agreements, p. 78.

Dartmouth street widened between certain points.

SECT. 2. The street formerly called Dedham street, now called Dartmouth street, is hereby widened forty feet on its westerly side from the point where it connects with Huntington avenue to Beacon street, so that the same shall be one hundred feet in width between the points above named.

SECT. 3. This act shall take effect upon its passage.

March 9, 1866.

1866. — CHAPTER 69.

AN ACT TO AUTHORIZE THE CITY OF ROXBURY TO DIVERT THE WATERS OF SMELT BROOK.

Be it enacted, etc. :

May divert for sewerage at any point within city limits.

SECTION 1. The city of Roxbury, for the purpose of sewerage, may divert the water of Smelt brook, or any portion thereof, from its present course, at any convenient point within the territorial limits of said city, and conduct the same into the common sewers of said city, as now existing or hereafter to be constructed, or may provide a new channel, culvert, or outlet, therefor to tide-water, and to these ends shall have all the rights, and be subject to all the liabilities provided for in an act concerning sewers and drains in the city of Roxbury, passed in the year one thousand eight hundred and sixty-six.

May authorize person or corporation to make diversion.

SECT. 2. The city of Roxbury may authorize such diversion to be made, under its supervision and control, by any person or persons, corporation or corporations, willing to undertake the same, and to assume and defray the entire cost and expense thereof, and to indemnify said city therefrom, upon such terms and conditions as said city shall deem expedient.

SECT. 3. This act shall take effect upon its passage.

March 9, 1866.

[1866, 36.]

1866. — CHAPTER 167.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO BUILD A SEA-WALL IN BOSTON HARBOR, NEAR THE FOOT OF POPLAR STREET.

Be it enacted, etc. :

May build from Taylor's wharf, via Poplar street dock, to Vinal's wharf.

Harbor commissioners to direct.

Rights of persons; remedy if impaired.

SECTION 1. The city of Boston is hereby authorized to build a sea-wall in Charles river, in the harbor of Boston, commencing the said wall at the north-westerly corner of Taylor's wharf, and extending the same across the end of the dock known as the Poplar street dock, to the south-westerly corner of Vinal's wharf, a distance of about seventy-three feet: *provided*, that the said wall shall be erected under the direction of the harbor commissioners, and shall not be built outside of the commissioners' line established by law; and *provided, further*, that if the building of said wall shall in anywise impair the legal rights of any person, such person suffering damage thereby shall have the rights and remedies for the ascertainment and recovery of the amount of such damage provided by law for the ascertainment and recovery of damages for land taken in said city of Boston for public highways or streets.

SECT. 2. This act shall take effect upon its passage.

April 16, 1866.

1866. — CHAPTER 188.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO BUILD A BRIDGE
ACROSS FORT POINT CHANNEL.¹*Be it enacted, etc. :*

The city of Boston is hereby authorized to build a bridge across Fort Point channel, at the place where Broadway, if continued in a straight line, or nearly a straight line, from South Boston to Boston proper, would cross said channel, and for that purpose may drive piles in said channel, necessary therefor, and also for such draw-piers as may be deemed expedient and proper for the public welfare and its own convenience; and said bridge, so constructed, shall be provided with good and suitable draws, which said city shall open and close at all times for the accommodation of vessels having occasion to pass the same; and the lines of the piles of the structure shall be driven in the direction of the current: *provided, however*, that this structure shall be erected under the direction and supervision of the board of harbor commissioners, and in such manner as in the opinion of said commissioners shall be in accordance with the mode of construction described and recommended in the seventh report of the United States commissioners on Boston harbor, made to the city of Boston in the year eighteen hundred and sixty-four.

May build at point defined and may drive piles in channel.

Shall provide draws in bridge and attend same.

Pile lines.

Proviso: harbor commissioners to direct structure, as recommended by United States commissioners.

April 25, 1866.

1866. — CHAPTER 212.

AN ACT TO AUTHORIZE THE CITY OF CHARLESTOWN TO FURNISH THE
TOWNS OF SOMERVILLE AND MALDEN WITH WATER.*Be it enacted, etc. :*

SECTION 1. The city of Charlestown is hereby authorized to supply the towns of Somerville and Malden with water for the extinguishment of fires and for other uses, and for this purpose may erect and maintain such structures as may be requisite and necessary therefor, and may extend their aqueduct into and through said towns of Somerville and Malden, upon such terms and conditions as may be agreed upon between said city and said towns.

May erect and maintain structures and extend works through towns as may be agreed.

SECT. 2. The towns of Somerville and Malden are hereby authorized to purchase a supply of water from said city of Charlestown, agreeably to the provisions aforesaid, upon such terms as may be agreed upon between said city and said towns.

Towns may purchase water. 1861, 105, § 16.

SECT. 3. The work of laying pipes and any other structures necessary to carry water from said city of Charlestown across the Mystic river over the Malden bridge or otherwise, shall be under the direction of the harbor commissioners.

Structure across Mystic river to be directed by harbor commissioners.

SECT. 4. This act shall take effect upon its passage.

May 3, 1866.

1866. — CHAPTER 247.

AN ACT TO AUTHORIZE THE ERECTION OF A SEA-WALL, AND THE FILL-
ING OF CERTAIN FLATS IN CHARLES RIVER, TO ABATE A NUISANCE.*Be it enacted, etc. :*

SECTION 1. The city of Boston is hereby authorized and empowered to build a sea-wall in the Charles river on or within the following described lines: beginning at the point of intersection of

City of Boston may build on lines defined.

¹ Now called Broadway bridge. Broadway was extended from Federal street to Albany street under a resolve and order passed by the city council May 3, 1860. See City Doc. 31, of 1860.

the northerly side of Revere street with the harbor commissioners' line as established in the year eighteen hundred and forty-one, and extending in a straight line south-westerly for a distance of six hundred and twenty-two feet to a point forty feet distant westerly and perpendicular to the said harbor commissioners' line; thence on a concave arc of a circle of fourteen hundred feet radius south-westerly for a distance of eleven hundred and sixty-one feet to a point forty feet distant northerly and perpendicular to the harbor commissioners' line on the northerly side of the mill-dam, established in the year eighteen hundred and forty; and to fill up to a proper grade the enclosed flats between the above described lines and the harbor commissioners' lines herein referred to, in order to abate and prevent a nuisance arising from the discharge and deposit of sewerage matter upon those flats now situated outside the reach of the scouring forces of the current of Charles river. And the city of Boston is hereby authorized to make any contracts with the riparian owners and any other parties as to the building of the sea-wall, the filling of said flats, and the future use thereof when filled, subject to the express condition that the flats filled under the authority hereby granted shall not be used for building purposes or for any other purpose than for ornamental grounds and a street.

May fill up flats.

May contract with riparian owners. Land made use of restricted.

Harbor commissioners to supervise work.

SECT. 2. The building of the sea-wall and the filling up of said flats shall be under the general supervision of the board of harbor commissioners and subject to all the regulations and conditions provided for in the act entitled an act to establish a board of harbor commissioners.

May 19, 1866.

1867. — CHAPTER 324.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO BUILD A HIGHWAY OVER CERTAIN TIDE-WATERS.

Be it enacted, etc.:

Board of aldermen may lay out streets between certain wharves. 102 Mass. 19. Proviso: shall not effect commonwealth's rights.

SECTION 1. The board of aldermen of the city of Boston is hereby authorized to lay out a street or streets, over tide-waters, between Lewis, Commercial, Mercantile, City, Long, Central, India, and Rowe's wharves, or either of them: *provided*, that nothing in this act shall be construed as ceding or yielding any right, title, or interest, the commonwealth may have in any lands or flats which lie within said street or streets, or shall be cut off from the harbor by the same.

Compensation for displacement of tide-water, how made.

SECT. 2. Such compensation shall be made for all displacement of tide-water, caused by anything done under this act, as the harbor commissioners shall determine, and be made in the manner required by chapter one hundred and forty-nine of the acts of the year eighteen hundred and sixty-six.

Attorney-general shall examine commonwealth's rights, and report.

SECT. 3. It shall be the duty of the attorney-general to examine into the right and title of the commonwealth in all lands and flats which would lie within and be cut off from the harbor by the building of such street or streets, and report his opinion thereupon to the next legislature.

June 1, 1867.

1867. — CHAPTER 343.

AN ACT TO AUTHORIZE THE CITY OF ROXBURY TO PROCURE A SUPPLY OF WATER.¹*Be it enacted, etc. :*

SECTION 1. The city of Roxbury is hereby authorized to contract with either the city of Boston or the city of Charlestown for a supply of water, and to take, by purchase or otherwise, and hold, such land, real estate, or water rights, and erect and maintain such works and structures as may be necessary for the introduction of water either from said city of Boston or from said city of Charlestown, or from any pond or other sources of supply within the limits of the county of Norfolk, except Jamaica pond, and the distribution thereof in said city of Roxbury.

May take water from any sources of supply within county of Norfolk, except Jamaica pond.

SECT. 2. For the purposes of distribution, said city of Roxbury may lay down pipes to any house or building in said city, the owner or owners thereof having notice and not objecting thereto, and may make and establish public hydrants in such places as may, from time to time, be deemed proper, and prescribe the purposes for which they may be used, and may change or discontinue the same; may regulate the use of the water within and without the said city, and establish the prices of rents to be paid for the use thereof. And the said city may, for the purposes aforesaid, carry and conduct any aqueducts or other works by them to be made and constructed, over or under any water-course, or any street, turnpike road, highway or other way, in such manner as not to obstruct or impede travel thereon, or the free flow of the water therein; and may enter upon and dig up any such land, street, road, or way, as may be necessary for the purposes of laying down said aqueducts or other works, and for maintaining or repairing the same.

May lay pipes, with hydrants, and regulate the use of water.

SECT. 18. If within three years from the passage of this act the territory of the city of Roxbury shall be annexed to and made a part of the city of Boston, then the city of Boston shall succeed to all the rights and privileges hereby granted to the city of Roxbury.

City of Boston to succeed to right of Roxbury if annexed within three years.

SECT. 19. This act shall take effect upon its passage.

June 1, 1867.

1867. — CHAPTER 359.

AN ACT TO UNITE THE CITIES OF BOSTON AND ROXBURY.

Be it enacted, etc. :

SECTION 1. All that territory now comprised within the limits of the city of Roxbury, in the county of Norfolk, with the inhabitants and estates therein, is hereby annexed to and made part of the city of Boston, in the county of Suffolk, and shall hereafter constitute a part of the county of Suffolk, subject to the same municipal regulations, obligations, and liabilities, and entitled to the same immunities in all respects, as the said city of Boston: *provided, however,* that until constitutionally and legally changed, said territory shall continue to be, for the purpose of electing members of the house of representatives, part of the county of Norfolk, constituting the third and fourth representative districts thereof; for the purpose of electing a senator, part of the first Norfolk senatorial district; for the purpose of electing a councillor, part of council district number three, and for

Roxbury annexed to Boston and made part of Suffolk county.

Provide: for civil elections shall continue as now until changed.

¹ By annexation (St. 1867, c. 359) Boston succeeded to all the rights, duties, and privileges, of Roxbury, and the sections omitted were thereby superseded.

the purpose of electing a representative in Congress, part of congressional district number three, as the same are now constituted.

Duties pertaining to elections transferred to Boston.

All the duties now required by law to be performed by the mayor and aldermen and city clerk, of the city of Roxbury, or either of them, pertaining to the election of representatives in congress, state councillors, senators, and members of the house of representatives, shall in like manner devolve upon, and be performed by the board of aldermen and city clerk of the city of Boston.

Duties of ward officers in new wards erected.

It shall be the duty of the ward officers of the several wards, that shall be erected out of said territory as hereinafter provided, to make return of all votes that may be cast therein, from time to time, for representatives in congress, state councillors, senators, members of the house of representatives, and for all other national, state, district, county, municipal, and ward officers, to the city clerk of the city of Boston.

Public property of city, and municipal rights, liabilities, and functions, to vest in Boston.

SECT. 2. All the public property of the said city of Roxbury shall be vested in and is hereby declared to be the property of the city of Boston; and said city of Boston shall succeed to all the rights, claims, causes of action, rights to uncollected taxes, liens, uses, trusts, duties, privileges, and immunities, of said city of Roxbury. The city treasurer of the city of Roxbury shall, on or before the second Monday in January, in the year eighteen hundred and sixty-eight, under the direction of the mayor and aldermen of the city of Roxbury, who shall, for this purpose, and for all other purposes necessary to carry into full effect the provisions of this act, continue to hold their offices over, transfer, deliver, pay over, and account for, to the city treasurer of the city of Boston, all books, papers, moneys, and other property in his possession as city treasurer of said city of Roxbury, when this act shall take effect; and the city of Boston shall become liable for and subject to all the debts, obligations, duties, responsibilities, and liabilities, of said city of Roxbury. All actions and causes of action which may be pending, or which shall have accrued at the time this act shall take effect, in behalf of or against the city of Roxbury, shall survive and may be prosecuted to final judgment and execution, in behalf of or against the city of Boston.

Treasurer of Roxbury to deliver over books, papers, and property.
Mayor and aldermen to hold over for same and for certain other acts.

Boston shall assume liabilities.

Pending actions and causes.

Jurisdiction of courts in Suffolk and Norfolk counties.

SECT. 3. The several courts within the county of Suffolk, after this act shall take effect, shall have the same jurisdiction over all causes of action and proceedings in civil causes, and over all matters in probate and insolvency, which shall have accrued within said territory hereby annexed, that said courts now have over like actions, proceedings and matters within the county of Suffolk: *provided, however*, that the several courts within the county of Norfolk shall have and retain jurisdiction of all actions, proceedings, and matters, that shall have been rightfully commenced in said courts prior to the time when this act shall take effect; and the supreme judicial court and the superior court within the county of Suffolk, after this act shall take effect, shall have the same jurisdiction of all crimes, offences, and misdemeanors, that shall have been committed within the said territory, that the supreme judicial court and superior court within the county of Norfolk now have jurisdiction of: *provided*, proceedings shall not have been already commenced in any of the courts within the county of Norfolk, for the prosecution of said crimes, offences, and misdemeanors; in which case the said courts within the county of Norfolk shall have and retain jurisdiction of the same for the full, complete, and final, disposition thereof. All suits, actions, proceedings, complaints, and prosecutions, and all matters of probate and insolvency, which shall be pending within said territory, before any court or justice of the peace, when this act shall take effect, shall be heard and determined as though this act had not passed.

Proviso.

Proviso.

SECT. 4. Said territory shall continue a judicial district under the jurisdiction of the police court of the city of Roxbury, which shall continue to exist, and shall hereafter be designated and known by the name of the municipal court for the southern district of the city of Boston. Said court shall have the same civil and criminal jurisdiction in said district and the same civil jurisdiction in the county of Suffolk as the police courts, other than that of the city of Boston, have by law in their respective districts and counties.

Police court of Roxbury to be municipal court southern district of Boston.

Jurisdiction defined.

Appeals shall be allowed from all judgments of said court, in like manner and to the same courts that appeals are now allowed from the judgments of the municipal court of the city of Boston. All acts and duties (if any), now incumbent upon the city council of the city of Roxbury, or either branch thereof, relating to the said court of the city of Roxbury, shall hereafter devolve upon and be performed by the city council of the city of Boston. All fines and forfeitures, and all costs in criminal prosecutions in said court, and all fees and charges received in said court in civil proceedings, shall be accounted for and paid over, in the same manner as is now provided for the municipal court within the city of Boston.

Appeals.

Municipal duties as to court.

Fines in and fees of court.

SECT. 5. The city council of the city of Boston shall, as soon as may be after the fifth day of November in the year eighteen hundred and sixty-seven, divide the said territory into three wards, one of which shall comprise the same territory now comprised in said fourth representative district, and the other two shall be so constituted as to contain as nearly as practicable an equal number of legal voters; and the wards thus established shall so remain until the alteration of the ward limits of said city of Boston provided by law. And the clerks of the said wards shall for the purposes mentioned in section eleven of the eighth chapter of the general statutes of this commonwealth assemble at such places as are or shall be required by law. And the board of aldermen are hereby authorized to designate such places, whenever such designation shall by law become necessary or proper, and said board shall succeed to all the powers and duties in reference to the same which are now vested in the county commissioners of the county of Norfolk. And each of the wards so established shall be entitled to all the municipal and ward officers which each of the other wards of said city of Boston is entitled to. And the board of aldermen of said city of Boston shall, in due season, issue their warrants for meetings of the legal voters of said wards respectively, to be held on the second Monday of December in the year eighteen hundred and sixty-seven, at some place within said wards respectively, which shall be designated in said warrants, there first to choose a warden, clerk, and five inspectors of elections for each of said wards, who shall hold their offices until the first Monday of January in the year eighteen hundred and sixty-eight, and until others shall be chosen and qualified in their stead; second, to give in their ballots for the several municipal and ward officers for the year eighteen hundred and sixty-eight, for which they shall be entitled to vote by virtue of the provisions of this act.

City council of Boston shall divide annexed territory into wards.

Clerks of wards, where to assemble.

Aldermen to designate, and have powers now vested in county commissioners.

Shall issue warrants for election of officers.

Tenure of officers chosen.

The voters of each said wards shall designate, by their ballots cast at said meetings, the term of service for which each of the six school committee men, who shall be chosen in each of said wards, shall serve, so that two of the number chosen in each ward shall serve for three years, two for two years, and two for one year. The board of aldermen of the city of Boston shall prepare lists of all the legal voters in said wards respectively, to be used at said meetings and shall do all other things which they are now by law required to do in respect to like elections in the other wards in the city of Boston; and at said meetings, any legal voter of said wards respectively

School committee voters shall designate terms.

Lists of voters to be prepared.

Ward meetings, how organized, *pro tempore*.

may call the citizens to order, and preside until a warden shall have been chosen and qualified.

Ward officers shall be sworn.
Residence of voters to be valid in Boston for election of 1867.

All ward officers whose election is provided for in this section shall be qualified according to law. The citizens of the territory by this act annexed to the city of Boston, shall have the same right to vote for municipal officers, at the annual municipal election of the city of Boston, in the year eighteen hundred and sixty-seven, as they would have had if said territory had formed part of the city of Boston for more than six months next before said election.

Repeal of law for election in city of Roxbury in December, 1867.

SECT. 6. All provisions of law requiring an election of municipal and ward officers for said city of Roxbury on the second Monday of December in the year eighteen hundred and sixty-seven, for the municipal year then next ensuing are hereby repealed.

Aldermen and councilmen of Boston, numbers of, after 1867.

SECT. 7. After the present municipal year the board of aldermen of the city of Boston shall consist of twelve members, and the common council of the city of Boston shall consist of sixty members. The number of wards of said city, including the wards to be formed out of the territory hereby annexed, shall be fifteen.

Wards.

Police officers and watchmen of Roxbury to continue as of Boston.

SECT. 8. The several police officers and watchmen that may be in office in the city of Roxbury when this act shall take effect, shall thereafter continue in the discharge of their respective duties, in the same manner as if they were police officers and watchmen in the city of Boston, until others shall be appointed in their stead.

Interest of Roxbury in county property to be released.

Balance of indebtedness to county, Boston to pay.

SECT. 9. All the interest which the city of Roxbury now has in the public property of the county of Norfolk, is hereby released and acquitted to said county of Norfolk. Such proportion of the debts and obligations of the county of Norfolk, existing when this act shall take full effect, over and above the value of all the property belonging to said county as should proportionally and equitably be paid by the inhabitants and property owners of the territory by this act annexed to the city of Boston, shall be paid by said city of Boston to said county of Norfolk; and the supreme judicial court shall have jurisdiction in equity to determine the amount of such proportion (if any), and enforce the payment of the same upon a suit in equity, in the name of said county, to be brought therefor within six months after this act shall go into full operation, by the county commissioners of said county of Norfolk, if they shall deem such suit for the interest of said county; but no such suit shall be instituted after said six months.

Supreme judicial court to have equity jurisdiction over, in case of suit.

Act not to impair contracts.

Nothing contained in this act shall impair the obligation of contracts; and the property and inhabitants of the territory by this act annexed to the city of Boston shall continue liable to the existing creditors of the county of Norfolk, in like manner as if this act had not been passed: *provided*, that if any person, by reason of his being an inhabitant of, or owning property in, said territory, shall be compelled to pay any part of an existing debt or obligation of the county of Norfolk, the amount of such payment shall constitute a debt to him from said county as hereafter to be constituted, exclusive of said territory, and may be recovered in like manner as other debts against the county of Norfolk.

Proviso: person required to pay towards present debt of county may recover same.

Act not to take full effect unless accepted by voters of said cities.

Meetings for purpose.

Polls.

SECT. 10. This act shall not take full effect, unless accepted by a majority of the legal voters of each of said cities, present and voting thereon by ballot, at meetings which shall be held in the several wards of said cities, respectively, upon notice duly given, at least seven days before the time of said meeting.¹ Meetings for that purpose shall be held simultaneously in said city on the second Monday of September next. And the polls shall be opened at nine o'clock

¹ Accepted by the voters of the two cities, Sept. 9, 1867.

in the forenoon of said day, and shall be closed at six o'clock in the afternoon.

In case of the absence of any ward officer, at any ward meeting, held in either city for the purpose aforesaid, a like officer may be chosen *pro tempore*, by hand vote, and shall be duly qualified and shall have all the powers and be subject to all the duties of the regular officer, at said meetings. Said ballots shall be "Yes" or "No" in answer to the question, "Shall an act passed by the legislature of the commonwealth in the year eighteen hundred and sixty-seven, entitled 'an act to unite the cities of Boston and Roxbury,' be accepted?" Such meeting shall be called, notified, and warned, by the mayor and aldermen of the city of Roxbury, and the board of aldermen of the city of Boston, respectively, in the same manner in which meetings for the election of municipal officers in said cities, respectively, are called, notified, and warned. The ballots given in shall be assorted, counted, and declared, in the wards in which they are given, in open ward meeting, and shall also be registered in the ward records. The clerk of each ward in the city of Boston shall make return of all ballots given in, in his ward, and the number of ballots in favor of the acceptance of this act, and the number of ballots against said acceptance, to the board of aldermen of the city of Boston, and like returns by the clerks of the several wards in the city of Roxbury shall be made to the mayor and aldermen of the city of Roxbury. All of said returns shall be made within forty-eight hours of the close of the polls.

Ward officers *pro tempore* may be chosen.

Ballots.

Meetings respectively, how warned.

Voting to be made of record.

Clerks of wards shall return votes in Boston to aldermen and in Roxbury to mayor and aldermen.

Time.

It shall be the duty of the board of aldermen of the city of Boston, and of the mayor and aldermen of the city of Roxbury, respectively, to certify and return as soon as may be the ballots cast in their respective cities, and the number of ballots in favor of the acceptance of this act and the number of ballots against said acceptance, in their respective cities, to the secretary of the commonwealth. And if it shall appear that a majority of the votes in each of said cities is in favor of the acceptance of this act, the said secretary shall immediately issue and publish his certificate declaring this act to have been duly accepted.

Said boards shall certify to secretary of commonwealth.

Act being accepted, secretary so to certify and publish.

SECT. 11. So much of this act as authorizes and directs the submission of the question of acceptance of this act to the legal voters of said cities, respectively, provided for in the tenth section of this act, shall take effect upon its passage.

Act may be submitted to voters upon passage.

SECT. 12. If this act shall be accepted as herein provided, it shall take effect on the fifth day of November, in the year eighteen hundred and sixty-seven, so far as to authorize, legalize, and carry into effect, the acts and provisions of the fifth, sixth, and seventh sections of this act; but for all other purposes (except as mentioned in section eleven of this act), it shall take effect on the first Monday of January, in the year eighteen hundred and sixty-eight.

If accepted by voters, when to be in force.

SECT. 13. If any election or balloting upon the question of the acceptance of this act, by either of said cities, shall within two months thereafter be declared void by the supreme judicial court, upon summary proceedings, which may be had in any county on the petition of fifty voters of either city, the question of accepting said act shall be again submitted to the legal voters of said city, and meetings therefor shall within thirty days thereafter be called, held, and conducted, and the votes returned and other proceedings had thereon, in like manner as herein before provided. But no election or balloting shall be held void for informality, in calling, holding, or conducting, the election, or returning the votes, or otherwise, except upon proceedings instituted therefor and determined within sixty days thereafter, as aforesaid.

Proceeding in case supreme judicial court declare balloting void.

June 1, 1867.

1868. — CHAPTER 68.

AN ACT RELATING TO A PUBLIC CEMETERY IN THE TOWN OF DORCHESTER.

*Be it enacted, etc.:*Commissioners
of cemetery.Board, how
elected and
organized.Vacancies, how
filled.Portion of ceme-
tery to be set
apart for public
burial.Commissioners
may make rules
and regulations.May convey, by
deed, rights of
burial and of
erecting tombs,
etc.Proceeds of sales
to be used for
improvement of
cemetery.Commissioners
may hold in
trust property
for embellish-
ment of ceme-
tery.

SECTION 1. The town of Dorchester is hereby authorized to elect by ballot, at a town meeting duly called, a board of five commissioners, who shall have the sole care, superintendence, and management, of the cemetery situated in said town, between Adams street and Neponset river, one member of which board shall be elected for the term of five years, one for four years, one for three years, one for two years, and one for one year; said terms to expire with the end of the municipal or official year. Said board may be organized by the choice of a chairman and clerk from their number, and a major part of the board shall be a quorum for the exercise of the powers of said office. In case of a vacancy occurring in the board, by death, non-acceptance, disability, resignation, or removal, during any municipal or official year, the remaining members shall notify the board of selectmen of Dorchester, in writing, thereof, and of the time and place appointed for a meeting of the two boards for the purpose of filling such vacancy, at least two weeks before the time appointed for said meeting; and, in pursuance of such notice, said two boards shall proceed to fill such vacancy until the end of the then current or official year, by electing, upon joint ballot, a suitable person thereto; and at each successive annual election of town officers after the year one thousand eight hundred and sixty-eight, said town shall elect by ballot, a suitable person or persons to serve on said board for the remainder of any unexpired term or terms, and for such full term of five years as shall expire before the next annual election.

SECT. 2. Said board of commissioners shall set apart a portion of said cemetery, as a public burial place for the use of the inhabitants of the town of Dorchester, free of charge therefor; and they may lay out said cemetery in suitable lots or other subdivisions, with necessary paths and avenues; may plant, embellish, and ornament, the same; may enclose and divide the same with proper fences, and erect such suitable edifices, appendages, and conveniences, as they shall, from time to time, deem convenient; and may make all such by-laws, rules, and regulations, in the execution of their trust, not inconsistent with the laws of the commonwealth, as they may deem expedient.

SECT. 3. Said board of commissioners shall have authority to grant and convey to any person, by deed executed in such manner and form as they may prescribe, the sole and exclusive right of burial, and of erecting tombs, cenotaphs and other monuments, upon such terms and conditions as they shall by rules and regulations prescribe.

SECT. 4. The proceeds of sales of lots or rights of burial in said cemetery shall be paid into the town treasury of Dorchester, to be kept separate from its other funds, and be devoted to the improvement and embellishment of the cemetery as aforesaid, subject to the order of the board of commissioners.

SECT. 5. Said commissioners are authorized to take and hold any appropriation, grant, donation, or bequest, upon trust, to apply the same, or the income thereof, for the improvement or embellishment of said cemetery, or for the erection, repair, preservation, or renewal, of any monument, fence, or other erection therein, or for the care, improvement, or embellishment, of any lot, or its appurtenances, in

any manner or form consistent with the purposes for which said cemetery is established, according to the terms of such appropriation, grant, donation, or bequest; and may by an agreement or obligation, bind themselves and their successors so to apply the same.

SECT. 6. Any sums of money so received by said commissioners, shall be invested by the town treasurer of Dorchester, under the direction of said commissioners, and all the same, and all property so received, shall ever be kept separate from any other moneys or property belonging to said town, and the income of the same shall be received by its treasurer. be subject to the order of said commissioners, and be appropriated by them in such manner as shall, in their opinion, best promote the purposes for which such appropriation, grant, donation, or bequest, is made; and the town shall be responsible for the good faith of its treasurer and of said commissioners.

Trust funds, etc., how to be invested and appropriated.

SECT. 7. Said commissioners shall not incur debts or liabilities for purposes other than as aforesaid, nor to an amount exceeding the amount of the funds subject to their order as aforesaid; and they shall annually, in the month of February,¹ make and render a report in writing of all their acts and doings, of the condition of said cemetery, an account of their receipts and expenditures for the same, and of the funds subject to their order.

Limitation of indebtedness.

Commissioners to make annual report.

SECT. 8. The lands purchased and set apart, and the lands which may be hereafter purchased and set apart, by the town of Dorchester, for the purpose of said cemetery, shall be exempt from all public taxes so long as the same shall be dedicated for such purpose.

Cemetery lands to be exempt from taxes.

SECT. 9. This act shall be void unless accepted by vote of said town, at a meeting duly called, within four months from its passage.²

Act void unless accepted by town.

SECT. 10. This act shall take effect upon its passage.

March 16, 1868.

[1874, 89.]

1868. — CHAPTER 97.

AN ACT TO INCORPORATE THE ALBANY-STREET FREIGHT RAILWAY COMPANY.

Be it enacted, etc.:

SECTION 1. Jarvis Williams, Adams Ayer, and Amos B. Merrill, their associates and successors, are hereby made a corporation by the name of the Albany Street Freight Railway Company; with all the privileges, and subject to all the duties, restrictions, and liabilities, set forth in all general laws which now are or may hereafter be in force relating to street railway corporations, so far as they may be applicable.

Albany Street Railway Co. in Boston.

SECT. 2. Said corporation, in such manner as may be prescribed and directed by the board of aldermen of the city of Boston, may construct, maintain, and use, a street railway with suitable turnouts and with such tracks and branch tracks as the board of aldermen may from time to time permit; the rails for said tracks to be of such pattern as the board of aldermen may prescribe, and to be also suitable for railway street cars in common use; commencing at the city stables on Albany street in Boston; thence through Albany and Lehigh streets to a connection with the tracks of the Boston and Albany railroad; and may also continue their tracks on Lehigh and South streets to a connection with the tracks of the Old Colony and

Tracks to be laid under direction of aldermen.

From Albany street to connect with the Boston and Albany railroad and Old Colony and Newport railroad.

¹ By St. 1874, c. 89, changed to May.

² Accepted April 6, 1868.

Newport railway; and said corporation may also extend their tracks from the city stables southward upon Albany street to such distance as the board of aldermen may from time to time permit; but said corporation shall have no power to connect with or run over the tracks of any street railway company other than the Marginal Freight Railway Company.

To be used to transport freight only.

SECT. 3. Said railway shall be used by said corporation for the transportation of freight only, and the cars thereon shall be drawn by horse-power only, unless the use of other motive power shall be sanctioned by said board of aldermen; and said corporation shall have power to fix such tolls for the transportation of freight as they may from time to time deem expedient: *provided*, that such tolls shall only be sufficient to pay the expenses of said corporation and to pay a dividend of five per cent., semi-annually upon the capital stock of said corporation and to pay a dividend of five per cent., semi-annually, upon the capital stock of said corporation.

Tolls.

Proviso.

May unite with other railway corporations.

SECT. 4. Said corporation, to carry into effect the purposes of this act, may unite with any railway corporation on such terms as may be mutually agreed, and for this purpose shall be entitled to all the rights and privileges, and shall be subject to all the duties, liabilities, and restrictions, set forth in the sixty-third chapter of the general statutes, and the laws supplemental thereto, so far as the same may be applicable.

Repairing and paving streets.

SECT. 5. Said corporation shall keep in repair, to the satisfaction of the superintendent of streets of the city of Boston, all the paving between their rails and three feet outside thereof on each side, and the board of aldermen of the city of Boston shall have full power to regulate the time and manner of running cars on said railway.

Capital stock.

SECT. 6. The capital stock of said corporation shall not exceed three hundred thousand dollars.

When to take effect.

SECT. 7. This act shall take effect as soon as it shall be accepted by the board of aldermen of the city of Boston.¹

April 1, 1868.

1868. — CHAPTER 183.

AN ACT IN RELATION TO THE OVERSEERS OF THE POOR OF THE CITY OF BOSTON.

Be it enacted, etc.:

\$300,000 additional personal estate.

The Overseers of the Poor in the city of Boston, a corporation duly established by law, are hereby authorized to hold personal estate not exceeding the amount of three hundred thousand dollars, in addition to the amount authorized by an act passed on the twenty-fifth day of April, in the year seventeen hundred and seventy-two, entitled "an act for incorporating the Overseers of the Poor in the town of Boston;" and the Overseers of the Poor in the city of Boston, acting by virtue of the sixth chapter of the acts of the year eighteen hundred and three, entitled "an act to incorporate Oliver Wendell and others, together with the Overseers of the Poor of the town of Boston for the time being, by the name and title of 'The Trustees of John Boylston's Charitable Donations for the Benefit and Support of Aged Poor Persons, and of Orphans and Deserted Children,'" are further authorized to hold personal estate not exceeding the value of one hundred thousand dollars, in addition to the amount authorized by said last named act.

1802, 44.

Trustees of John Boylston's donations may hold \$100,000 additional personal estate.

May 8, 1868.

[1772, 3; 1802, 44; 1864, 128.]

¹ Accepted by board of aldermen, April 27, 1868.

1868. — CHAPTER 201.

AN ACT RELATIVE TO THE BLASTING OF ROCKS IN THE CITY OF BOSTON.

Be it enacted, etc. :

SECTION 1. No person shall blast any rock or other substance with gunpowder or other material, within one hundred yards of any public place or highway in the city of Boston, without license from the board of aldermen or some person designated by them in writing, specifying the terms and conditions on which such license is granted: *provided, however,* that the remedy of any person injured by the blasting of rocks shall not be affected by this act, nor shall it be considered as applying to the surveyors of highways in the discharge of their official duties.

Blasting rocks, etc., prohibited in Boston, without license from aldermen.

Remedy of persons injured, etc.

SECT. 2. Any person who shall, either by himself, his servant or agent, or by any person in his employ, violate any of the terms or conditions upon which the license as aforesaid shall be granted, shall forfeit and pay, for each and every offence, a sum not less than ten nor more than fifty dollars.

Penalty.

SECT. 3. This act shall take effect upon its passage.

May 14, 1868.

1868. — CHAPTER 223.

AN ACT TO AUTHORIZE THE CITY OF BOSTON AND THE TOWN OF WEST ROXBURY TO IMPROVE STONY BROOK AND ITS TRIBUTARIES.

Be it enacted, etc. :

SECTION 1. The city of Boston and the town of West Roxbury, for the purpose of sewerage, may remove obstructions in or over Stony brook and the tributaries thereof, so far as the said brook and tributaries flow within the limits of said city and town respectively; may divert the water and alter the course and deepen the channel thereof; and, the more effectually to make the said improvements, may take or purchase land not exceeding four rods in width, on either side of the present channel of said brook and of its tributaries, or of any channel into which said waters may be diverted, within the limits of said city and town respectively. Said city or town, as the case may be, shall, within sixty days from the time they shall take any of said lands, file in the office of the registry of deeds for the county in which said lands are situate, a description of the land so taken, as certain as is required in a common conveyance of land, and a statement that the same are taken pursuant to the provisions of this act; which said statement shall be signed by the mayor of said city or the selectmen of said town, as the case may be, and the title to all land so taken shall vest in said city or said town, as the case may be.

Boston and West Roxbury may remove obstructions from Stony brook.

May divert the water, alter channel, etc.
May take or purchase land.

To file description of lands taken.
120 Mass. 506.

Statement to be signed by mayor or selectmen.

SECT. 2. Any person injured in his property by any of the acts done by said city or town under the first section of this act, shall, upon application to the mayor and aldermen of said city, or the selectmen of said town, according as said property is situate in said city or town, have compensation therefor, the amount thereof to be determined by said mayor and aldermen, or said selectmen. And said mayor and aldermen, or said selectmen, as the case may be, shall finally adjudicate upon the question of damages, within thirty days after the filing of said application, unless the parties agree in writing to extend the time. In case damages are awarded, payment shall be made forthwith by said city or town, as the case may be.

Compensation for damages.

Persons aggrieved may apply for jury.

Costs, by whom to be paid.

Expense of improvement, how and by whom to be paid.

Assessments to be lien upon real estate for one year.

Estates may be sold as for non-payment of taxes.

Assessments may be apportioned into three parts, to be paid in three years.

Person aggrieved by assessment may apply for a jury.

Costs.

Stony brook to be under control of Boston and West Roxbury. Proviso.

Streams not to be obstructed.

SECT. 3. If the applicant is aggrieved, either by the estimate of his damages, or by a refusal or neglect within thirty days to estimate the same, he may, within three months from the expiration of said thirty days, or of the extended time, as provided in the second section, apply for a jury, and have his damages assessed in the manner provided when land is taken in laying out highways. If the damages are increased by the jury, the damages and costs shall be paid by the city or town, as the case may be; otherwise, the costs arising on such application shall be paid by the applicant.

SECT. 4. All the expenses of improving said brook and its tributaries, authorized by this act, including all damages paid under the preceding sections, shall be paid by said city or town, according as they may be incurred within their respective limits. But the mayor and aldermen of said city, and the selectmen of said town, may assess upon the estates within their respective limits, bordering upon said brook and its tributaries, a part of the expenses incurred respectively by them, not exceeding, however, one-half thereof, and not exceeding the amount of the benefit in proportion to the benefit which they may adjudge said estates to have sustained by said improvements.

SECT. 5. All assessments made under the fourth section of this act shall constitute a lien on the real estate assessed for one year after they are laid, and may, together with all incidental costs and expenses, be levied by sale thereof (except as provided in the sixth section of this act), if the assessment is not paid within three months after a written demand of payment, made either upon the person assessed, or upon any person then occupying the estate, or posted upon the premises; such sale to be conducted in like manner as sales for the non-payment of taxes.

SECT. 6. If the owner of any estate, assessed as provided in the fifth section, desires to have the amount of said assessment apportioned, he shall give notice thereof in writing to the board of aldermen, or to the selectmen, as the case may be, at any time before a demand is made upon him for the payment thereof; and said board of aldermen, or selectmen, shall thereupon apportion the said amount into three equal parts, which apportionment shall be certified to the assessors, and the said assessors shall add one of said equal parts to the annual tax of said estate each year for the three years next ensuing.

SECT. 7. Any person aggrieved by the assessment under the fourth section of this act may, within three months after a written demand for payment, as provided in the fifth section of this act, petition for a jury or committee in the same manner as appeals are made when land is taken in laying out highways. If the assessment is not confirmed by the jury, the costs of the application shall be paid by the city or town, as the case may be; otherwise the same shall be paid by the applicant.

SECT. 8.¹ [When the improvements authorized by this act shall have been completed, that part of Stony brook and its tributaries flowing within said city and town, shall be and remain under the control of said city and town respectively: *provided, however*, that the city of Boston shall neither cause nor permit any obstructions to the flow of the waters from said town of West Roxbury.]

SECT. 9. This act shall not be construed to authorize the said city or town to restrain or dam up any of the streams now flowing into Stony brook or into the tributaries thereof.

May 19, 1868.

[1870, 220; 1871, 340; 1874, 196.]

¹ Repealed by St. 1871, c. 340, § 1.

1868. — CHAPTER 291.

AN ACT CONCERNING THE MILL-DAM ROAD, AND THE ROADS CONNECTED THEREWITH BELONGING TO THE COMMONWEALTH.¹

Be it enacted, etc. :

SECTION 1. The city of Boston and the towns of Brookline, Brighton, and Watertown, are hereby authorized, within one year from the passage of this act, to lay out and accept as highways, so much of the Mill-dam road and the roads and bridges heretofore connected therewith in toll franchise, excepting the road known as the Cross-dam, as lies within the respective limits of the said city and towns; the said road being the same which was conveyed to the said commonwealth by the Boston and Roxbury Mill Corporation by indenture dated the ninth day of June, in the year eighteen hundred and fifty-four, and also by indenture dated the thirtieth day of December, in the year eighteen hundred and fifty-six. The said highways and the said Watertown turnpike may be laid out of the same width as they were originally laid out; and the said towns and city shall not be liable in so doing for any land damages to any owner or abutter on said ways or turnpike; and upon such laying out and acceptance of the same, all tolls thereon shall be discontinued, and the property of the commonwealth therein, excepting said cross-dam, shall become vested, severally, in the city and towns aforesaid.

Mill-dam road to be laid out as a highway.

Watertown turnpike.

Tolls to be discontinued.

SECT. 2. Upon such laying out and acceptance of said roads and bridges as aforesaid, the said city and towns shall severally be liable for damages which may be incurred by reason of any defect in the same, within their respective limits, in the same manner, and to the same extent, as cities and towns are now liable, by law, for defects in town ways; and the town of Watertown shall also assume the charge and maintenance of that portion of the Watertown turnpike lying within the territory heretofore ceded to the United States, and shall be liable, in the same manner, and to the same extent aforesaid, for any defects therein, except as far as they may be controlled or prevented by the authority of the United States; and the bridge over Charles river shall be maintained with a sufficient draw therein for the convenient passage of vessels, and a suitable draw-tender be provided therefor, by and at the expense of said towns of Watertown and Brighton.

Towns to be liable for damages for defects in road.

Watertown to maintain portion of turnpike.

Bridge over Charles river maintained by Watertown and Brighton.

SECT. 3. Whenever the governor shall be satisfied that the aforesaid roads and bridges have been laid out and accepted as town ways or highways as aforesaid, there shall be paid to the towns of Watertown, Brighton, and Brookline, the sum of fifty thousand dollars, to be divided as follows, to wit: to the town of Watertown, twenty thousand dollars; to the town of Brighton, fifteen thousand dollars; to the town of Brookline, fifteen thousand dollars.

Upon acceptance as highways, \$50,000 to be divided among towns.

If the amount of tolls paid into the treasury of the commonwealth under the provisions of the second section of chapter two hundred and one of the acts of the year one thousand eight hundred and sixty-one, shall not amount to the sum of fifty thousand dollars at the time said roads and bridges are laid out and accepted by said towns as aforesaid, then the full amount of the tolls so paid into the treasury shall be paid to said towns, in the proportion aforesaid; and the tolls so received into the treasury from said roads, not exceeding the amount of fifty thousand dollars, are hereby appropriated for the purpose aforesaid.

If tolls do not amount to \$50,000, amount received to be paid over.

SECT. 4. If the city of Boston shall not lay out and accept the

If Boston does not accept road

¹ See Back Bay Agreements, pp. 37, 66.

within one year,
etc., to be high-
way as though
laid out by city.

portion of said road within its limits, excepting said cross-dam, within one year from the passage of this act, or within six months after the towns of Watertown, Brighton, and Brookline, have laid out and accepted the portions within their respective limits, then said roads so lying and being within the limits of the city of Boston, shall be and become a public highway to all intents and purposes whatsoever, and the said city shall be liable therefor in the same manner and to the same extent as if the same had been laid out and accepted by said city, according to the provisions of the first section of this act.

Right of rail-
roads not to be
affected.

SECT. 5. Nothing in this act contained shall affect the rights or duties of any railroad corporation having tracks upon said road: but the town ways and highways which may be located under the provisions hereof, may cross such railroad tracks at grade, wherever grade crossings now exist thereon.

SECT. 6. This act shall take effect upon its passage.

June 4, 1868.

1868. — CHAPTER 301.

AN ACT TO AMEND "AN ACT TO INCORPORATE THE TRUSTEES OF THE POOR'S FUND IN THE TOWN OF CHARLESTOWN."

Be it enacted, etc.:

1825, 40, § 3,
amended.

Chapter forty of the acts of the year eighteen hundred and twenty-five is hereby amended by striking out from the third section of said chapter, the words "*provided, however*, that the annual income of said fund shall not exceed the sum of two thousand dollars."

June 4, 1868.

1868. — CHAPTER 326.

AN ACT IN ADDITION TO "AN ACT FOR THE IMPROVEMENT OF THE HARBOR OF BOSTON AND THE COMMONWEALTH'S FLATS THEREIN."

Be it enacted, etc.:

Harbor commis-
sioners may con-
tract for state to
fill flats in Bos-
ton harbor.

SECTION 1. The harbor commissioners are hereby authorized to contract in the name of the commonwealth with any person or persons, or with the city of Boston, for the filling of any portion of the lands or flats in Boston harbor which lie northerly of South Boston and easterly of Fort Point channel, and within the exterior line laid down on the plan for the occupation of the flats owned by the commonwealth in Boston harbor, approved by the legislature in the eighty-first chapter of the resolves of the year eighteen hundred and sixty-six, and for building wharves, docks, sea-walls, basins, streets, bridges, or sewers, and for dredging or doing any work upon or in relation to said flats, and to pay for the same by conveyances of any portion of said flats, or the granting of any rights or privileges therein, and for laying out and building streets and sewers to and over said flats or any part thereof, reserving and laying out channels; and they may authorize any corporations or persons to lay and use railroad tracks over any parts of said flats, for the purpose of transporting materials for filling up the said flats, and of any other work in relation thereto, and shall have full power to determine and settle, by agreement, arbitration, or process of law, the relative rights and interests of the commonwealth and all other parties in and to and over said flats and any parts thereof: and said commissioners shall have power to enter into any contracts in regard to the occupation and improvement of said flats which said commissioners think best: *provided*, that every conveyance made and the terms thereof, every contract entered into, every authority given for laying railroad tracks

— may allow
railroad tracks
to be laid, etc.

— may settle by
arbitration con-
flicting rights.

— may make
contracts in re-
gard to occupa-
tion, etc.

Proviso.

and otherwise, every plan for the occupation of said flats, and building docks, sea-walls, basins, wharves, streets, and sewers, thereon, adopted by said commissioners, shall be submitted to the governor and council, and shall not be binding on the commonwealth, and shall not have any force or effect, until the same have been approved by the governor and council.

SECT. 2 Said commissioners may make any contract which they think judicious, with any of the riparian owners in South Boston, and with the Boston Wharf Company, for the purchase or exchange of lands or flats, and they shall have full authority to release, for money or other valuable consideration, upon such terms and conditions as they shall deem fit, and convey by deed, with warranty or otherwise, to be duly executed by them in behalf of the commonwealth, the right, title, and interest, of the commonwealth in the whole or any part of said lands or flats; but all sales of lands or flats, unless otherwise ordered by the governor and council, shall be by public auction, and the manner, terms, and conditions, of such sales shall be prescribed by the governor and council.

Harbor commissioners may make contracts with riparian owners for exchange, etc., of flats.

SECT. 3. The sea-wall authorized to be erected under chapter three hundred and fifty-four of the acts of the year eighteen hundred and sixty-seven may be commenced at any point on Fort Point channel considered expedient by the commissioners, and shall be built on the exterior line laid down on the plan designated in said act, as subsequently modified, or within said line at a distance not exceeding fifty feet therefrom. Said wall may be constructed with openings in the same, filled with sheet pilings or otherwise, between such points as said board shall determine. And said commissioners may erect a suitable temporary bulkhead of wood to retain the dredged material, previous to the construction of said wall, at such a distance in the rear thereof as will not interfere with the construction of said wall and the docks and wharves connected therewith. And the commissioners may use the unexpended balance of the appropriation made in the act aforesaid for these purposes.

Sea-wall, where and how to be built.
1867, 354.

Temporary bulkhead may be erected.

SECT. 4. All contracts for filling section one, as shown upon plan number one, dated the twelfth day of December, in the year eighteen hundred and sixty-seven, annexed to the report of the committee on the commonwealth flats, near South Boston, appointed under chapter ninety-three of the resolves of the year eighteen hundred and sixty-seven, shall require the whole of that portion of the upper harbor of Boston, colored red upon plan number two, annexed to said report, to be dredged, as nearly as practicable, to the depth of twenty-three feet below mean low-water thereon, and the materials thus obtained to be used in filling said section one. And all contracts for filling sections two and three, as shown upon said plan number one, shall require a portion of said upper harbor to be dredged in the same manner and to the same depth as aforesaid. and the materials thus obtained to be used in filling said sections two and three; and the number of cubic yards of material so required to be dredged and used in filling said sections two and three, respectively, shall bear the same proportion to the respective areas of said sections two and three that the number of cubic yards herein required to be dredged from said locality, colored red, shall bear to the area of said section one. All said contracts for filling said sections shall require the additional materials therefor to be dredged from the reserve channel, as shown upon said plan number two, and also from such other parts of the harbor or taken from such other sources as said commissioners may deem expedient. And the dredging so done in said upper harbor shall be full compensation for the tide-water displaced by the work authorized under this act: *provided*,

Contracts for filling section one, etc.

Contracts for filling sections two and three.

Dredging, etc.

Proviso.

however, it shall appear from hydrographical and physical surveys that injury to the harbor has resulted from the work herein authorized, then such injury shall be repaired, by dredging or otherwise, in such manner and to such an extent as the legislature shall hereafter determine.

Proceeds of sales to be paid into treasury and applied to sinking-fund.

SECT. 5. All money received from the sale of lands and flats or otherwise, under this act, shall be paid into the treasury of the commonwealth, and shall be applied to the sinking-fund as provided for by section three of chapter one hundred and twenty-two of the acts of the year eighteen hundred and sixty-five.

Eastern avenue, with bridge over Fort Point channel, to be public street.

SECT. 6.¹ The city of Boston is hereby authorized to build and lay out as a public street, Eastern avenue, with a bridge over Fort Point channel, having suitable draws, said avenue and bridge to be located and constructed at such places and upon such plans and upon such terms and conditions as the harbor commissioners may make, the same to be subject to the approval of the governor and council.

Contracts subject to approval of governor and council.

SECT. 7. All plans and specifications for the improvement of the flats and for work in connection therewith, and all contracts made in carrying out the authority given by this act, shall be subject to the approval of the governor and council.

Money not to be paid, except as provided in act.

SECT. 8. Nothing herein contained shall authorize said commissioners, by any stipulation or contract, to require the payment of any money from the treasury of the commonwealth except as provided in the third section of this act.

Repeal.

SECT. 9. Chapter ninety-three of the resolves of the year eighteen hundred and sixty-seven, also sections three and five of the three hundred and fifty-fourth chapter of the acts of the year eighteen hundred and sixty-seven, are hereby repealed.

SECT. 10. This act shall take effect upon its passage.

June 9, 1868.

1869. — CHAPTER 78.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO LAY OUT A PUBLIC STREET OR WAY ACROSS SOUTH BAY.

Be it enacted, etc. :

May build a pile bridge across South bay.

SECTION 1. The city of Boston is hereby authorized to lay out a public street or way across South bay, and for that purpose to build a pile bridge, not exceeding one hundred feet in width, from the westerly side of South bay at or near the southerly end of Pine island wharf, so called, to the easterly side of said bay; the said bridge to be located in such a direction that, if continued eastwardly, it would intersect Federal street at or near Dorchester street; and for that purpose the said city of Boston may drive piles in the said bay necessary therefor, and also for such draw-piers as may be deemed necessary and proper for the public welfare and its own convenience; and said bridge so constructed shall be provided with such good and suitable draws as the harbor commissioners may direct, which said city shall open and close at all times for the accommodation of vessels having occasion to pass the same: *provided*, that all things done under this act shall be subject to the determination and approval of the harbor commissioners, as provided in the fourth section of chapter one hundred and forty-nine of the acts of the year eighteen hundred and sixty-six; [and *provided, further*, that this act shall in no wise impair the legal rights of any person.²]

Draws to be provided.

Subject to approval of harbor commissioners.

Proviso.

¹ Eastern avenue bridge was completed and opened to public travel in 1875. By an ordinance passed May 22, 1876, it was named Congress street bridge. See *Statutes and Ordinances* (ed. 1876), p. 80, note.

² This proviso was stricken out by St. 1869, c. 447, § 2.

SECT. 2. The authority hereby granted to said city may be re-
voked at any time; and if said city shall neglect for the space of five
years to build and finish said bridge, then this act shall be void.

SECT. 3. This act shall take effect upon its passage.

March 17, 1869.

[1869, 447; 1874, 114.]

1869. — CHAPTER 94.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO CONSTRUCT DRAINS
ON FORT HILL, AND FOR OTHER PURPOSES.

Be it enacted, etc.:

SECTION 1. The city of Boston is hereby authorized to construct
and maintain such new drains or sewers for the efficient and proper
drainage of Fort Hill territory, so called, in the city of Boston, over
any lots of land of said territory as the board of aldermen may deem
necessary, and shall allow compensation for any damages occasioned
thereby, in the same manner as is now provided by law in relation
to the construction of common sewers.

City may con-
struct sewers
for drainage of
Fort Hill terri-
tory.

Damages.

SECT. 2. The board of aldermen of the city of Boston may reduce
the grade of estates that require excavation upon Fort Hill, to the
level which has been or may hereafter be determined upon for the
improvement of said territory; and for such purpose may cause the
removal of buildings, whether abutting on streets or otherwise, in the
same manner and with the same provision for damages as is now pro-
vided in relation to buildings upon lands taken for streets.

Aldermen may
reduce the grade
of estates on
Fort Hill.

May remove
buildings.

SECT. 3. This act shall take effect upon its passage.

March 20, 1869.

1869. — CHAPTER 155.

AN ACT TO AUTHORIZE THE PURCHASE OF THE PROPERTY OF THE EAST
BOSTON FERRY COMPANY, AND TO REPEAL THE ACT TO INCORPORATE
THE MAVERICK BRIDGE COMPANY, AND FOR OTHER PURPOSES.

Be it enacted, etc.:

SECTION 1. The city council of the city of Boston, for the purpose
of improving private property, and of protecting the same and the
travel and business between the mainland in said city and East Bos-
ton from the disabilities and burdens of the ferry communications
heretofore existing between said parts of the city, and of furnishing
additional facilities to said travel and business, are hereby authorized
to purchase the boats and so much of the other property, including
the franchise, of the East Boston Ferry Company,¹ as they shall think
expedient, at such price as may be agreed upon between them and
the said ferry company, with the approval of the mayor of said city,
and to ordain and establish the present or such other lines of ferry
travel as they may see fit between the said parts of said city, and to
cause the said ferry to be maintained thereon in such manner and
upon such rates of ferriage as the board of aldermen of said city shall
from time to time judge the best interests of the said city to require,
excepting only as hereinafter provided.

City of Boston
may purchase
franchise and
property of
East Boston
Ferry Com-
pany.

May establish
rates of fer-
riage.

SECT. 2. Upon the completion of said purchase, the said city
council shall consider and determine whether the interests of said
city will be best promoted by maintaining said ferry thereafter free
of tolls, and in case they shall decide the same in the affirmative, then

May maintain
ferry free of
tolls.

¹ Incorporated by St. 1852, c. 244.

the said city shall maintain and operate, or cause to be maintained and operated, the said ferry thereafter free of all tolls, and with facilities for travel not less than those now furnished by said company, or those which now are, or hereafter may be, by law required.

Aldermen to determine what portion of cost shall be borne by owners of real estate in East Boston.

And in such case the said board of aldermen shall adjudge and determine whether the territory of that part of the said city called East Boston and Breed's Island, or any and what part thereof, will receive any benefit and advantage therefrom beyond that general advantage which will be received therefrom by other portions of said city, and what portion of the cost of such purchase shall be borne by the city, and what portion by the owners of real estate in said East Boston and Breed's Island, or the portion thereof so adjudged to be benefited, by reason of said benefit. A notice of such determination shall be published for two weeks successively in some one newspaper published in said city.

Parties aggrieved may apply for jury.

Proceedings as in case of laying out highways. Proviso.

SECT. 3. Any person aggrieved by the determination of said board, either as to the benefit received or as to the division of the expense between the city and the owners of real estate as aforesaid, may at any time within two months after the first publication of the notice aforesaid, apply for a jury. Such application shall be made in like manner, and the proceedings thereon shall be the same as in the case of laying out and discontinuing highways in the said city: *provided*, that before making his application the party shall give one month's notice in writing to said board of aldermen of his intention so to apply, and shall therein particularly specify his objections to the determination of said board as to the benefit received, and the proposed division of expense, to which specification he shall be confined upon the hearing before the jury; and *provided, also*, that if the superior court within and for the county of Suffolk shall not be in session at any term thereof at the time of such application, the filing of his petition in the office of the clerk of said court shall be deemed an application for the purposes of this act. If, upon the hearing, the objections to said determination are not sustained, the charges arising on such application shall be paid by the applicant or person recognizing therefor, otherwise they shall be paid by the city, and the board of aldermen may, if necessary, determine anew the benefit and division of expense aforesaid, or either of them, and may make such abatements as they may judge expedient. Any person who neglects to make application for a jury as herein provided, shall be concluded in all respects under this act by said determination of said board of aldermen, and shall not be entitled by any process, either at law or in equity, to prevent the said assessment or to recover the amount of any assessment collected of him.

Proviso.

If jury is not applied for, determination of aldermen to be final.

Decision of aldermen to be certified to assessors, and assessments to be made upon estates benefited.

SECT. 4. After two months from the final determination of said board of aldermen as to the division of the expense of such purchase and the territory benefited thereby as aforesaid, the said board of aldermen shall cause to be certified to the assessors of said city the portion of the cost of said purchase which is to be borne by the owners of real estate within said territory to be benefited, which shall be by said assessors equitably and ratably assessed upon the said owners of real estate in said district adjudged to be benefited, and shall constitute a lien upon said real estate, and shall be collected and enforced with like charges for costs and interest, and in the same manner and with the same powers in all respects as are provided by law for the collection of taxes on real estate: *provided*, that the said board may, if they shall judge the public interest to require it, apportion the said amount to be assessed as aforesaid into not exceeding five equal parts, which apportionment shall be also certified to the said assessors, who shall add one of said equal parts yearly

Proviso.

to the annual tax of said estates adjudged to be benefited as aforesaid, but pursuant to the original assessment made as aforesaid.

SECT. 5. If the said city council, upon the completion of said purchase, shall adjudge and determine that instead of maintaining said ferry free of all tolls, it is for the best interests of said city that the said ferry shall be thereafter operated with more boats and greater facilities for travel and business than are now furnished by said company, and at one cent ferriage for a foot passenger, instead of two cents as heretofore charged, and with the other rates of ferriage thereon so reduced that the receipts of said ferry annually shall not exceed the cost of operating the same, instead of paying, as provided by the charter of said company, at least eight per cent. annual dividends, then and in such case the said city shall thereafter maintain and operate, or cause to be maintained and operated, the said ferry, with such greater accommodations and at such reduced rates of ferriage as aforesaid, or with such other and still greater accommodations and at such more reduced rates of ferriage as the said board of aldermen may from time to time judge expedient for the purposes mentioned in the first section of this act. And the said board of aldermen, having first adjudged and determined the territory, if any, that shall be thereby specially benefited as aforesaid, may also adjudge and apportion, not exceeding one-half part of the cost of such purchase, to be assessed upon the said estates adjudged to be benefited as aforesaid, in the same manner, and with the same powers and liabilities in all respects as are herein before provided respecting such assessment.

City may operate ferry with more boats and at reduced rates of ferriage.
123 Mass. 460.

SECT. 6. If the said city council, instead of adjudging to maintain said ferry free of all tolls, as provided in section two of this act, shall adjudge and determine that it is for the best interests of said city that the said ferry shall be maintained free of tolls for a term of not less than ten years next succeeding said purchase, and thereafter upon such rates of ferriage as may then be adjudged by said city, then and in such case the said city shall maintain and operate, or cause to be maintained and operated, the said ferry, for and during a term of not less than ten years next succeeding said purchase, free of all tolls, but in all other respects as provided by section five of this act, and may thereupon apportion, not exceeding one-half part of the cost of such purchase, upon the said estates benefited, with the same powers and under the same limitations as herein before provided respecting such assessment.

City may maintain ferry for ten years free of tolls, and subsequently apportion one-half of cost of purchase upon estates benefited.

SECT. 7. The said board of aldermen shall have power at all times, notwithstanding any of the provisions of this act, or anything done by said city in pursuance thereof, to levy and collect such rates of ferriage as they shall judge expedient, for and upon all teams and vehicles passing over said ferry to or from any place beyond the limits of said city.

May collect tolls for all vehicles passing to or from places beyond limits of city.

SECT. 8. Chapter three hundred and fifty-two of the acts of eighteen hundred and sixty-eight is hereby repealed.

Repeal.

SECT. 9. This act shall take effect upon its passage.

April 10, 1869.

1869.—CHAPTER 166.

AN ACT CONCERNING THE ROXBURY LATIN SCHOOL, IN THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. The city of Boston is hereby authorized and empowered to appropriate from time to time such sums of money for the main-

Boston may appropriate moneys for sup-

port of Roxbury
Latin school.
Proviso.

tenance of the Roxbury Latin school, not exceeding the sum of three thousand dollars in any single year: *provided*, that the trustees of this school shall annually report to the board of school committee of Boston, on or before the second Tuesday of September, the standing and condition of the school, and such statistics as are required of the Boston Latin school in section twenty, chapter four, of the rules of the board.

SECT. 2. This act shall take effect upon its passage.

April 13, 1869.

1869.—CHAPTER 181.

AN ACT FOR THE PREVENTION OF A NUISANCE IN THE DOCKS INCLOSED BY THE BUILDING AND FILLING IN OF ATLANTIC AVENUE, IN THE CITY OF BOSTON.

Be it enacted etc.:

Boston may fill
docks inclosed
by Atlantic ave-
nue with earth
from Fort Hill.

SECTION 1. The city of Boston, to prevent the nuisance which will be created by the sewers discharging into the docks, and from stagnant water in said docks inclosed by the building of Atlantic avenue, may fill up said docks with earth from Fort Hill, and shall have a lien on the land made by said filling, for the cost of doing the same, as hereinafter provided.

May extend
sewers so as to
discharge into
deep water.

SECT. 2. The said city may extend the sewers now discharging into said docks, and such other sewers as in their judgment will be required, so as to discharge the same into deep water below Atlantic avenue, or from the ends of the wharves, as they shall deem most convenient or conducive to public health, and assess the cost of doing the same in the manner now provided by law in relation to the building of sewers.

To record in
Suffolk registry
description and
claim for filling
docks.

SECT. 3. The said city shall file for record in the Suffolk registry, a description of the boundaries of the docks so filled, together with their claim for the cost of filling the same, and also the portions of such assessments for sewers as shall apply to lands filled as before named, and such amounts for filling and for constructing sewers so filled as aforesaid, shall constitute a lien on said lands, which may be enforced and collected in the same manner as is provided by law for the collection of taxes upon real estate; and when the different claimants to the lands so filled shall settle the boundaries of their several claims, the said city shall discharge their lien on the record in said registry on the land of any owner, on the said owner paying to the said city the proportion of said cost for filling and construction of sewers due on his land, together with interest on the same from the date of said expenditure by said city.

Cost of filling
to be a lien upon
land, and may
be collected like
taxes.

Owner of land
may fill it.

SECT. 4. Nothing in this act shall be so construed as to prevent any owner from filling his own lot of land, provided he does it in season to prevent a nuisance, and the filling be done with suitable and wholesome earth, to be approved by said city.

SECT. 5. This act shall take effect upon its passage.

April 17, 1869.

1869. — RESOLVES. CHAPTER 40.

RESOLVE AUTHORIZING THE ISSUE OF ARMS TO THE ENGLISH HIGH AND LATIN SCHOOLS IN THE CITY OF BOSTON.

Arms may be is-
sued to Boston
for use of Eng-
lish High and
Latin schools.

Resolved, That his excellency the governor be and is hereby authorized to issue to the city of Boston such arms for the use of the English High and Latin schools in said city as, in his judgment, may

be so distributed without detriment to the militia service: *provided*, Proviso. the city of Boston shall be held responsible for the return in good order and condition of said arms whenever his excellency the governor shall so direct.

April 27, 1869.

1869. — CHAPTER 193.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO CONVEY WATER TO DEER ISLAND.

Be it enacted, etc.:

SECTION 1. The city of Boston is authorized to convey water from East Boston, so called, to Deer Island in Boston harbor, by laying aqueducts or water-pipes through the town of Winthrop and across Shirley gut; and for that purpose shall have all the rights and privileges, and shall be subject to all the liabilities, mentioned in chapter one hundred and sixty-seven of the acts of the year eighteen hundred and forty-six, and the several acts in addition thereto. Boston may lay water-pipes across Shirley gut to Deer Island. And the said city of Boston may make any suitable structures for the purpose of conveying the said water, under the tide-waters in said Shirley gut: *provided*, that such structures shall be approved by the harbor commissioners. May erect structures, subject to approval of harbor commissioners.

SECT. 2. This act shall take effect upon its passage.

April 24, 1869.

[1846, 167; 1849, 187.]

1869. — CHAPTER 194.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO WIDEN FEDERAL-STREET BRIDGE.

Be it enacted, etc.:

SECTION 1. The city of Boston is hereby authorized to widen Federal-street bridge, in said city, to a width equal to the width of said Federal street: *provided*, that all things done under this act shall be subject to the determination and approval of the harbor commissioners, as provided in section four of chapter one hundred and forty-nine of the acts of the year eighteen hundred and sixty-six. May widen Federal-street bridge. Subject to approval of harbor commissioners. P.S. 19, § 8.

SECT. 2. This act shall take effect upon its passage.

April 24, 1869.

[1825, 147; 1830, 121; 1831, 46; 1855, 406.]

1869. — CHAPTER 247.

AN ACT IN ADDITION TO "AN ACT IN RELATION TO THE POWERS OF CONSTABLES IN THE CITY OF BOSTON."

Be it enacted, etc.:

SECTION 1. Any constable of the city of Boston who shall have complied with the provisions of section one, of chapter one hundred and forty-seven of the acts of the year eighteen hundred and sixty, may, within said city of Boston, serve any writ or other process in any personal action in which the damages are not laid at a greater sum than three hundred dollars, and any process in replevin in which the subject-matter does not exceed in value three hundred dollars. Repealed by P.S. See post, p. 321; P.S. 27, § 114.

SECT. 2. This act shall take effect on the first day of June next.

May 10, 1869.

1869. — CHAPTER 349.

AN ACT TO UNITE THE CITY OF BOSTON AND THE TOWN OF DORCHESTER.

Be it enacted, etc. :

Dorchester annexed to Boston and to become part of Suffolk county.

Proviso.

Election of members of house of representatives, senator, councillor, etc.

Duties of selectmen, town clerk, and ward officers.

SECTION 1. All the territory now comprised within the limits of the town of Dorchester, in the county of Norfolk, with the inhabitants and estates therein, is hereby annexed to and made part of the city of Boston, in the county of Suffolk, and shall hereafter constitute a part of the county of Suffolk, subject to the same municipal regulations, obligations, and liabilities, and entitled to the same immunities in all respects as the said city of Boston: *provided, however*, that until constitutionally and legally changed, said territory shall continue to be, for the purpose of electing members of the house of representatives, part of the county of Norfolk, constituting the fifth representative district thereof; for the purpose of electing a senator, part of the second Norfolk senatorial district; for the purpose of electing a councillor, part of the second council district; and for the purpose of electing a representative in congress, part of congressional district number two, as the same are now constituted.

All the duties now required by law to be performed by the selectmen and town clerk of the town of Dorchester, or either of them, pertaining to the election of representatives in congress, state councillors, senators, and members of the house of representatives, shall in like manner devolve upon and be performed by the board of aldermen and city clerk of the city of Boston.

It shall be the duty of the ward officers of the ward, erected out of said territory, as hereinafter provided, to make return of all votes that may be cast therein, from time to time, for representatives in congress, state councillors, senators, members of the house of representatives, and for all other national, state, district, county, municipal, and ward officers, to the city clerk of the city of Boston.

Public property of Dorchester to be vested in Boston.

Treasurer of Dorchester to deliver books, papers, and property.

Boston to be liable for debts of Dorchester.

Pending actions, etc., to survive.

Jurisdiction of courts in Suffolk and Norfolk counties.

SECT. 2. All the public property of the said town of Dorchester shall be vested in and is hereby declared to be the property of the city of Boston; and said city of Boston shall succeed to all the rights, claims, causes of action, rights to uncollected taxes, liens, uses, trusts, duties, privileges, and immunities, of said town of Dorchester. The town treasurer of the town of Dorchester shall, on or before the second Monday of January, in the year eighteen hundred and seventy, under the direction of the selectmen of said town of Dorchester, who shall for this purpose, and for all other purposes necessary to carry into full effect the provisions of this act, continue to hold their offices over, transfer, deliver, pay over, and account for, to the city treasurer of the city of Boston, all books, papers, moneys, and other property, in his possession as town treasurer of said town of Dorchester, when this act shall take effect; and the city of Boston shall become liable for and subject to all the debts, obligations, duties, responsibilities, and liabilities, of said town of Dorchester. All actions and causes of action which may be pending, or which shall have accrued at the time this act shall take effect, in behalf of or against the town of Dorchester, shall survive, and may be prosecuted to final judgment and execution, in behalf of or against the city of Boston.

SECT. 3. The several courts within the county of Suffolk, except the municipal court for the southern district of the city of Boston, after this act shall take effect, shall have the same jurisdiction over all causes of action and proceedings in civil causes, and over all matters in probate and insolvency, which shall have accrued within

said territory hereby annexed, that said courts now have over like actions, proceedings, and matters, within the county of Suffolk: *provided, however,* that the several courts within the county of Norfolk shall have and retain jurisdiction of all actions, proceedings, and matters, that shall have been rightfully commenced in said courts prior to the time when this act shall take effect; and the supreme judicial court and the superior court within the county of Suffolk, after this act shall take effect, shall have the same jurisdiction of all crimes, offences, and misdemeanors, that shall have been committed within the said territory, that the supreme judicial court and superior court within the county of Norfolk now have jurisdiction of: *provided,* proceedings shall not have been already commenced in any of the courts within the county of Norfolk, for the prosecution of said crimes, offences, and misdemeanors; in which case, the said courts within the county of Norfolk shall have and retain jurisdiction of the same for the full, complete, and final, disposition thereof. All suits, actions, proceedings, complaints, and prosecutions, and all matters of probate and insolvency which shall be pending within said territory, before any court or justice of the peace, when this act shall take effect, shall be heard and determined as though this act had not passed.

SECT. 4. Said territory shall be added to, and constituted a part of, the judicial district under the jurisdiction of the municipal court of the city of Boston. Said court shall have the same civil and criminal jurisdiction in said territory as it now has by law in its district as it now exists.

SECT. 5. The said territory shall constitute a ward of the city of Boston, to be called ward sixteen, and shall so remain until the alteration of the ward limits of the city of Boston, provided by law. And the ward so established shall be entitled to all the municipal and ward officers which each of the other wards of said city of Boston is entitled to.

SECT. 6. If this act shall be accepted as hereinafter provided, said territory shall, after the second day of November, in the year eighteen hundred and sixty-nine, constitute a ward of the city of Boston, to be called ward sixteen, for all the purposes mentioned in this section and in section seven of this act. And the board of aldermen of said city of Boston shall, in due season, issue their warrant for a meeting of the legal voters of said ward, to be held on the second Monday of December, in the year eighteen hundred and sixty-nine, at some place within said ward, which shall be designated in said warrant, there first to choose a warden, clerk, and five inspectors of elections, for said ward, who shall hold their offices until the first Monday of January in the year eighteen hundred and seventy, and until others shall be chosen and qualified in their stead; second, to give in their ballots for the several municipal and ward officers for the year eighteen hundred and seventy, for which they shall be entitled to vote by virtue of the provisions of this act.

The voters of said ward shall designate, by their ballots cast at said meeting, the term of service for which each of the six school committee men who shall be chosen in said ward, shall serve, so that two of the number so chosen shall serve for three years, two for two years, and two for one year. The board of aldermen of the city of Boston shall prepare lists of all the legal voters in said ward, to be used at said meeting, and shall do all other things which they are now by law required to do in respect to like elections in other wards in the city of Boston; and at said meeting, any legal voter of said ward may call the citizens to order, and preside until a warden shall have been chosen and qualified. All ward officers whose election is

Citizens may vote for municipal officers of Boston in the year 1869.

provided for in the preceding section, shall be qualified according to law. The citizens of the territory by this act annexed to the city of Boston, shall have the same right to vote for municipal officers at the annual municipal election of the city of Boston, in the year eighteen hundred and sixty-nine, as they would have had if said territory had formed part of the city of Boston for more than six months next before said election.

Number of aldermen, councilmen, and wards in Boston.

SECT. 7. After the present municipal year the board of aldermen of the city of Boston shall consist of twelve members, and the common council of the city of Boston shall consist of sixty-four members. The number of wards of said city, including the ward to be formed out of the territory hereby annexed, shall be sixteen.

Police officers, firemen, etc., of Dorchester, to continue in discharge of their duties.

SECT. 8. The several police officers and watchmen that may be in office in the town of Dorchester when this act shall take effect, shall thereafter continue in the discharge of their respective duties, in the same manner as if they were police officers and watchmen of the city of Boston, until others shall be appointed in their stead. And the fire engineers and firemen of the town of Dorchester shall in like manner continue in the discharge of their duties, as if they were engineers and firemen of the city of Boston, till others are appointed in their stead.

Interest of Dorchester in county property released.

Boston to pay just proportion of debts of Norfolk county.

SECT. 9. All the interest which the town of Dorchester now has in the public property of the county of Norfolk, is hereby released and acquitted to said county of Norfolk. Such proportion of the debts and obligations of the county of Norfolk, existing when this act shall take full effect, over and above the value of all the property belonging to said county as should proportionally and equitably be paid by the inhabitants and property owners of the territory by this act annexed to the city of Boston, shall be paid by said city of Boston to said county of Norfolk; and the supreme judicial court shall have jurisdiction in equity to determine the amount of such proportion (if any), and enforce the payment of the same upon a suit of equity, in the name of said county, to be brought therefor within six months after this act shall go into full operation, by the county commissioners of said county of Norfolk, if they shall deem such suit for the interest of said county; but no such suit shall be instituted after said six months.

Obligation of contracts not impaired.

Nothing contained in this act shall impair the obligation of contracts; and the property and inhabitants of the territory by this act annexed to the city of Boston shall continue liable to the existing creditors of the county of Norfolk, in like manner as if this act had not been passed: *provided*, that if any person, by reason of his being an inhabitant of, or owning property in, said territory, shall be compelled to pay any part of an existing debt or obligation of the county of Norfolk, the amount of such payment shall constitute a debt to him from said county as hereafter to be constituted, exclusive of said territory, and may be recovered in like manner as other debts against the county of Norfolk.

Proviso.

Act not to take full effect unless accepted by votes of Boston and Dorchester.

SECT. 10. This act shall not take full effect unless accepted by a majority of the legal voters of the city of Boston present and voting thereon by ballot, at meetings which shall be held in the several wards of said city, and also by a majority of the legal voters of the town of Dorchester present and voting thereon by ballot, at a meeting which shall be held in said town.¹ All said meetings shall be held simultaneously on the twenty-second day of June of the present year, and upon notice thereof duly given at least seven days before the time of said meetings, and the polls shall be opened at nine o'clock in the forenoon of said day, and shall be closed at six o'clock in

Meetings to be held in both places June 22, 1869.

¹ Accepted, June 22, 1869.

the afternoon. In case of the absence of any ward officer at any ward meeting in said city, held for the purpose aforesaid, or of any of the selectmen, or of the town clerk at any meeting in said town for said purpose, a like officer may be chosen, *pro tempore*, by hand vote, and shall be duly qualified and shall have all the powers, and be subject to all the duties, of the regular officer at said meetings. Said ballots shall be "yes" or "no" in answer to the question, "Shall an act passed by the legislature of the commonwealth in the year eighteen hundred and sixty-nine, entitled 'an act to unite the city of Boston and the town of Dorchester,' be accepted?" Such meeting in the town of Dorchester shall be called, notified, and warned, by the selectmen of said town, in the same manner in which meetings for the election of town officers in said town are called, notified, and warned; and such meetings in the city of Boston shall be called, notified, and warned, by the board of aldermen of said city in the same manner in which meetings for the election of municipal officers in said city are called, notified, and warned.

Ward officers *pro tempore*, may be chosen.

Ballots.

Meetings, how warned.

The ballots given in shall be assorted, counted, and declared, in the ward meetings in which they are given in the city of Boston, in open ward meeting, and shall be registered in the ward records; and in the town of Dorchester the ballots given in shall be assorted, counted, and declared, in open town meeting, and shall be recorded upon the records of the town. The clerk of each ward in the city of Boston shall make return of all ballots given in his ward, and the number of ballots in favor of the acceptance of this act, and the number of ballots against said acceptance, to the board of aldermen of the city of Boston; said returns to be made within forty-eight hours of the close of the polls.

Result of balloting to be recorded and returned.

It shall be the duty of the board of aldermen of the city of Boston to certify as soon as may be the ballots cast in the city of Boston, and the number of ballots cast in favor of the acceptance of this act, and the number of ballots cast against said acceptance, in said city, to the secretary of the commonwealth.

Returns to be made to the secretary of the commonwealth.

The selectmen and town clerk of the town of Dorchester shall, as soon as may be, make a like return of the ballots cast in said town, and the number of ballots cast in favor of acceptance of this act, and the number of ballots cast against said acceptance, in said town, to the secretary of the commonwealth.

And if it shall appear that a majority of the votes cast in the city of Boston, and a majority of the votes in the town of Dorchester, respectively, is in favor of the acceptance of this act, the said secretary shall immediately issue and publish his certificate declaring this act to have been duly accepted.

Secretary to publish certificate, if majority of votes cast is in favor of acceptance.

SECT. 11. So much of this act as authorizes and directs the submission of the question of acceptance of this act to the legal voters of said city and said town, respectively, provided for in the tenth section of this act, shall take effect upon its passage.

Part of act to take effect upon passage.

SECT. 12. If this act shall be accepted as herein provided, it shall take effect on the third day of November, in the year eighteen hundred and sixty-nine, so far as to authorize, legalize, and carry into effect, the acts and provisions of the sixth and seventh sections of this act; but for all other purposes (except as mentioned in section eleven of this act), it shall take effect on the first Monday of January, in the year eighteen hundred and seventy.

When to take effect if accepted.

SECT. 13. If any election or balloting upon the question of the acceptance of this act, by either said city or said town, shall within two months thereafter be declared void by the supreme judicial court, upon summary proceedings, which may be had in any county on the petition of fifty voters of either said city or said town, the question of

Proceedings in case supreme judicial court declare balloting void.

accepting said act shall be again submitted to the legal voters of said city or town, and a meeting therefor shall within thirty days thereafter be called, held, and conducted, and the votes returned and other proceedings had thereon, in like manner as herein before provided. But no election or balloting shall be held void for informality, in calling, holding, or conducting the election, or returning the votes, or otherwise, except upon proceedings instituted therefor and determined within sixty days thereafter, as aforesaid.

June 4, 1869.

1869. — CHAPTER 369.

AN ACT CONCERNING THE ERECTION OF STABLES IN THE CITY OF BOSTON.

Be it enacted, etc. :

Stables not to be built in Boston without consent in writing of board of aldermen.

Proviso.

Supreme judicial court may prevent building by injunction.

When to take effect.

SECTION 1. No person shall hereafter erect, occupy, or use, any building for a stable in the city of Boston, except in such place as the board of aldermen of said city shall first in writing approve and direct, and every person so erecting, using, or occupying, a building without such approval, shall forfeit a sum not exceeding fifty dollars, for every month he so uses or occupies such building, and in like proportion for a longer or shorter time; this act shall not apply to any stable now erected, occupied, or used, so long as the same is not enlarged or rebuilt.

SECT. 2. The supreme judicial court, or any justice thereof, either in term time or vacation, may issue an injunction to prevent the erection, occupancy, or use, of any stable contrary to the provisions of this act.

SECT. 3. This act shall take effect in three months after its passage.

June 9, 1869.

[1810, 124; 1860, 109; 1871, 280; 1878, 192.]

1869. — CHAPTER 447.

AN ACT IN ADDITION TO "AN ACT TO AUTHORIZE THE CITY OF BOSTON TO LAY OUT A PUBLIC STREET OR WAY ACROSS SOUTH BAY, AND FOR OTHER PURPOSES."

Be it enacted, etc. :

Boston may lay water-pipes to Pine island, thence across Roxbury canal and South bay by syphons.

Proviso.

Amendment to 1860, 78, § 1.

SECTION 1. The city of Boston is hereby authorized to lay water-pipes from a point at or near the junction of Federal and Dorchester streets in said city, in a westerly direction, crossing the Boston, Hartford, and Erie, railroad to Pine island, so called, thence in a westerly direction crossing the marsh and the Roxbury canal to the junction of East Chester park and Albany street in said city: *provided*, that such pipe or pipes shall cross the Roxbury canal by means of a syphon, so as not to obstruct navigation; and shall also cross the South bay by syphon under so much of the channel as the harbor commissioners shall direct. And all things done under this act, so far as relates to the crossing of tide-waters, shall be subject to the determination and approval of the harbor commissioners, as provided in the fourth section of chapter one hundred and forty-nine of the acts of the year eighteen hundred and sixty-six.

SECT. 2 The act passed the present session of the legislature entitled, "an act to authorize the city of Boston to lay a public street or way across South bay," is hereby amended by striking from the first section thereof the following concluding words thereof; "and,

provided, that this act shall in no wise impair the legal rights of any person."

SECT. 3. So much of the street across South bay, mentioned in the act described in the preceding section, shall be constructed with solid filling, and so much thereof shall be a pile bridge as the harbor commissioners shall direct.

Street across South bay to be constructed with solid filling and pile-bridge.

SECT. 4. The city of Boston is hereby authorized to locate, construct, and maintain, a railroad track or tracks from some convenient point on any railroad near the street herein before mentioned, near where the street herein before mentioned crosses said railroad, and may extend said track or tracks in an easterly direction or westerly direction; said railroad tracks to be used only for the construction of said street.

Boston may maintain railroad for construction of street.

SECT. 5. All damages occasioned to private property by laying out and constructing said street, shall be ascertained and compensated in the manner provided in chapter forty-three of the general statutes, for the laying out of highways.

Damages to private property. P.S. 49.

SECT. 6. This act shall take effect upon its passage.

June 22, 1869.

[1869, 78; 1874, 114.]

1869. — CHAPTER 448.

AN ACT IN RELATION TO LAYING OUT STREETS IN THE THIRTEENTH, FOURTEENTH, AND FIFTEENTH WARDS OF THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. The board of aldermen¹ of the city of Boston, with the concurrence of the common council of said city, may lay out such public highways and streets in the thirteenth, fourteenth, and fifteenth wards of said city, being the territory formerly constituting the city of Roxbury, as they in their judgment shall deem to be for the common benefit of the inhabitants of said city, and pay for the land so taken; which highways and streets said city of Boston shall not be obliged to complete sooner than the board of aldermen may deem it expedient so to do.

City council may lay out streets, etc., in territory formerly city of Roxbury, and pay for land taken.

SECT. 2. This act shall take effect upon its passage.

June 22, 1869.

[1870, 837; 1872, 242.]

1870. — CHAPTER 79.

AN ACT IN RELATION TO LAYING OUT STREETS IN THE TWELFTH AND SIXTEENTH WARDS OF THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. The board of aldermen¹ of the city of Boston, with the concurrence of the city council of said city, may lay out such public highways and streets in the sixteenth ward of said city, being the territory formerly constituting the town of Dorchester, as they in their judgment shall deem to be for the common benefit of the inhabitants of said city, and pay for the land so taken; which highways and streets said city of Boston shall not be obliged to complete sooner than the board of aldermen may deem it expedient so to do.

City council may lay out streets, etc., in territory formerly Dorchester, and pay for land taken.

SECT. 2. The board of aldermen of said city of Boston, may in

May lay out streets, etc., in

¹ Street commissioners. See St. 1870, c. 337.

twelfth ward
and South bay.

like manner, with the concurrence of the city council, lay out such public highways and streets in the twelfth ward in said city and the territory known as South bay, as they in their judgment shall deem to be for the common benefit of the inhabitants of said city, and pay for the land so taken, which highways and streets said city of Boston shall not be obliged to complete sooner than the board of aldermen may deem it expedient to do so.

SECT. 3. This act shall take effect upon its passage.

March 17, 1870.

[1872, 242.]

1870.—CHAPTER 216.

AN ACT IN ADDITION TO "AN ACT FOR SUPPLYING THE CITY OF CHARLESTOWN WITH PURE WATER.

Be it enacted, etc.:

Charlestown
may lay addi-
tional line of
mains from
water works in
Somerville.

SECTION 1. The city of Charlestown is hereby authorized to locate and lay a second line of force and supply mains or aqueducts from the engine-house of the Charlestown water works in Somerville, to the city of Charlestown, and enlarge its present engine-house, or make such additions thereto as may hereafter in the opinion of said city become necessary, and to take and to hold by purchase or otherwise, any land, real estate, or water rights, necessary for erecting, laying, and maintaining, the same. And for the purposes aforesaid, said city may carry and conduct any aqueduct or other works by it to be made and constructed, over or under any water-course, or any street, turnpike, road, highway or other way, in such manner as not to obstruct or impede travel thereon, or the free flow of water therein, and may enter upon and dig up any such land, street, or way, as may be necessary for the purpose of laying down such aqueducts or other works, and for maintaining or repairing the same.

Mystic water
board to have all
the rights, etc.,
named in 1861,
105, § 3.

SECT. 2. The Mystic water board of said city shall have, exercise, and are hereby vested with, all the rights, privileges, and authority, and be subject to all the provisions and restrictions, as the commissioners named in section three of chapter one hundred and five of the acts of the year eighteen hundred and sixty-one.

Liability of city
of Charlestown
for damages.

SECT. 3. The said city shall be liable to pay all damages that shall be sustained by any persons in their property by the taking of any land, water, or water-rights, or by the constructing of any aqueducts or other works, for the purposes of this act; and any owner or party who shall sustain damages by the doings of said city under this act, shall have the like remedy, and like proceedings shall be had, whether by the party sustaining damages as aforesaid, or by the said city of Charlestown, as is provided in said chapter one hundred and five of the acts of the year eighteen hundred and sixty-one.

"Water bonds
of the city of
Charlestown,"
not exceeding
\$300,000, may
be issued to de-
fray expenses.

SECT. 4. For the purpose of defraying the costs and expenses incurred by said city in the extension of the water works, the city council of said city of Charlestown is hereby authorized to issue from time to time, scrip, notes, or certificates of debt, to be denominated on the face thereof, "Water bonds of the city of Charlestown," to an amount not exceeding three hundred thousand dollars, bearing interest at a rate not exceeding the legal rate of interest in this commonwealth, which shall be redeemable at a period of time not less than ten nor more than thirty years from and after the issue thereof. And said city council may sell the same, or any part thereof, from time to time, at public or private sale, or pledge the

same for money borrowed for the purposes aforesaid, on such terms and conditions as said city council shall adjudge proper.

SECT. 5. The said city of Charlestown shall erect proper hydrants in number equal to one for every five hundred feet of such new aqueduct, and in any event to the number of twenty in the town of Somerville, along the line of said new aqueduct or elsewhere in the pipes connecting therewith, as the water committee of the town of Somerville and the select men of the town of Medford shall direct; and said towns of Somerville and Medford shall at all times maintain said hydrants, and draw water therefrom, without charge therefor, for the extinguishment of fires, under such regulations as the city of Charlestown may from time to time establish under authority of this act. And for this purpose there shall be allowed to said town of Somerville by the said city of Charlestown, in the settlement for water for hydrants under the contract now existing between said city of Charlestown and town of Somerville, the sum of twenty-eight dollars for each hydrant thus erected in said town.

Hydrants to be erected along the line of new aqueduct.

SECT. 6. The provisions of section twelve of chapter one hundred and five of the acts of the year eighteen hundred and sixty-one, and any by-laws or ordinances passed by said city in pursuance thereof, are hereby extended and made applicable to any and all the additional works constructed under the provisions of this act.

Provisions of 1861, 105, § 12, and by-laws, made applicable to the additional works.

SECT. 7. This act shall take effect upon its passage.

May 5, 1870.

[1861, 105; 1864, 176; 1865, 185; 1866, 212; 1871, 159; 1872, 85.]

1870. — CHAPTER 220.

AN ACT IN ADDITION TO "AN ACT TO AUTHORIZE THE CITY OF BOSTON AND THE TOWN OF WEST ROXBURY TO IMPROVE STONY BROOK AND ITS TRIBUTARIES."

Be it enacted, etc.:

SECTION 1. The city of Boston and the town of West Roxbury, or either of them, may authorize a committee or board of commissioners to exercise any or all of the powers granted to said city and town respectively by an act entitled "an act to authorize the city of Boston and town of West Roxbury to improve Stony brook and its tributaries," the same being chapter two hundred and twenty-three of the acts of the year eighteen hundred and sixty-eight, and to perform any or all the duties therein imposed upon the mayor and aldermen of said city and the selectmen of said town, respectively; and in such case the notices provided for in the sixth section of said act shall be given to such committee or board of commissioners; and any person aggrieved by the action of such committee or board of commissioners, shall have the right to apply for a jury provided for in the third and seventh sections of said act.

Duties may be performed by commissioners.

Parties aggrieved may apply for jury.

SECT. 2. The city of Boston and town of West Roxbury, or their respective committees or boards of commissioners, in their behalf, if they shall be thereto duly authorized, shall have authority to contract with each other for the payment by one to the other of any part of the expense incurred by the other in the improvement of Stony brook as provided for in said act, and may include the amounts so paid in the statement of the total expenses made up to determine the amount of assessments to be laid under the fourth section of said act.

Boston and West Roxbury may contract with each other concerning payment of expense of improvement of Stony brook.

SECT. 3. No person, except those authorized by chapter two hundred and twenty-three of the acts of eighteen hundred and sixty-eight

Unauthorized person not to obstruct brook

without consent
of Boston and
West Roxbury.

Proviso.

and by the preceding sections of this act, shall change the present course of Stony brook, or erect any structure in or over the same, or create any obstruction to the flow of the waters of the same without the consent of said city of Boston and town of West Roxbury first obtained: *provided*, that upon the completion of any part of the channel for the new location of said brook, said city or town, or their respective committee or board of commissioners, may give public notice of the completion of the same, and may authorize the owners of abutting lands, so far as the same are within the respective limits of said city or town, to fill up the old channel of said brook or to erect structures in or over the same.

SECT. 4. This act shall take effect upon its passage.

May 6, 1870.

[1868, 228; 1871, 340; 1874, 196.]

1870. — CHAPTER 300.

AN ACT IN RELATION TO PRISON POINT BRIDGE.

Be it enacted, etc.:

Draw to be made
thirty-six feet
in width.

SECTION 1. The cities of Cambridge and Charlestown shall forthwith cause to be made in lieu of the existing draw in the Prison Point bridge, over Miller's river, a draw with a clear opening of thirty-eight¹ feet in width.

Commissioner
to have charge
of draw.
R.O. c. 40, § 9.

SECT. 2. For the purpose of constructing said draw, the city councils of said cities shall each in pursuance of such ordinances as they may respectively establish, elect one commissioner, and said commissioner so chosen shall have the care and management of said draw.

Expense of
maintaining,
etc., to be borne
by both cities.

SECT. 3. The expense of constructing and maintaining said draw and keeping the same in repair, and of affording all necessary and proper accommodations to vessels having occasion to pass the same by day or night, shall be borne equally by said cities; and said cities shall be jointly liable for all damages or injuries resulting from any defect in said draw or from carelessness or neglect in the management of the same.

SECT. 4. This act shall take effect upon its passage.

June 1, 1870.

1870. — CHAPTER 302.

AN ACT RELATING TO WEST BOSTON AND CRAGIE BRIDGES.²

Be it enacted, etc.:

Harbor commis-
sioners to deter-
mine position of
draws in West
Boston and
Cragie bridges.

SECTION 1. The harbor commissioners shall forthwith locate and determine the position of the draws in the West Boston bridge and Cragie or Canal bridge, over Charles river, to be constructed as hereinafter provided.

Three commis-
sioners to be ap-
pointed by
supreme judicial
court, upon peti-
tion of mayor
of Cambridge;

SECT. 2. The supreme judicial court, sitting as a full court in any county at any time after the passage of this act, shall, upon the petition of the mayor of the city of Cambridge, after such notice as the court or any justice thereof may order, appoint three discreet and competent commissioners for the purposes hereinafter named.

— to be sworn,
and to apportion
and assess upon

SECT. 3. Said commissioners shall be sworn to the faithful and impartial discharge of their duties, and shall then, after due notice

¹ Changed to thirty-six by St. 1870, c. 401, § 1.

² See Statutes and Ordinances (ed. 1876), p. 78.

and hearing in such manner and amount as they shall deem just and equitable, apportion and assess upon the cities of Boston and Cambridge the expense of maintaining and keeping in repair said bridges, including the expense of opening the draws thereof and affording all necessary and proper accommodations to vessels having occasion to pass the same by day or night, and shall also at the same time appraise the fund, as it now exists, paid to the city of Cambridge under chapter two hundred and fifty-seven of the acts of the year eighteen hundred and fifty-seven, and also all funds, moneys, and properties, belonging to said bridges, and apportion to the city of Boston the same proportion thereof as Boston shall, under and by virtue of this act, have apportioned or assessed upon it of the expense of maintaining and keeping in repair said bridges.

Boston and Cambridge expense of maintaining, etc.;

SECT. 4. Said commissioners shall return their award into the supreme judicial court, sitting for the county of Suffolk; and when said award shall have been accepted by said court, the same shall be a final and conclusive adjudication of all matters herein referred to said commissioners, and shall be binding upon all parties; and said court may enforce the same by proper process; and the expense of executing this act shall be paid by said cities in the same proportions as the expense of maintaining said bridges is apportioned and assessed upon said cities.

— to return award to supreme judicial court.

SECT. 5. Upon the acceptance of said award by the court as aforesaid, the city of Cambridge shall pay and deliver to the city of Boston the proportion of said fund, funds, moneys, and properties, apportioned to Boston under said award, and the said bridges shall become and be highways; and thereafter said bridges and draws shall be maintained, supported, managed, and kept in repair, by the cities of Boston and Cambridge according to the terms and proportions established by said award; and all damages recovered in any action at law by reason of any defect or want of repair in either of said bridges or the draws thereof, shall be paid by said cities on the same terms and in the same proportions.

Upon acceptance of award Cambridge to pay to Boston sum apportioned.

SECT. 6. The care and management of said bridges and draws shall be vested in a board of commissioners consisting of one person from each city, chosen in accordance with such ordinances as said cities shall respectively establish, and until such commissioners are chosen, the mayors of said cities shall *ex officio* constitute such commissioners.

Commissioners, one from each city, to have care of draws and bridges; 1871, 250. R.O. c. 40, § 6.

SECT. 7. The commissioners designated in the preceding section shall cause to be made in lieu of the existing draws in said bridges a draw in each bridge with a clear opening of thirty-eight feet in width, in the position determined under section one of this act.

— to cause draws to be made thirty-six feet in width.

SECT. 8. Nothing in this act shall release the Cambridge Railway Company or the Union Railway Company, from any legal obligation either of said companies is now under to the cities of Cambridge and Boston, or either of them, or any legal obligation now existing to maintain and keep in repair any portion of said bridges, or from any liability for any loss or injury that any person may sustain by reason of any carelessness, neglect, fault, or misconduct, of its agents or servants, in the construction, repair, management, or use, of its tracks on said bridges, or other use or occupation thereof.

Railroad companies not released from obligation to keep bridge in repair.

SECT. 9. Chapter three hundred and eleven of the acts of the year eighteen hundred and sixty-nine, and all others provisions of law inconsistent herewith, are hereby repealed.

Repeal.

SECT. 10. This act shall not take full effect unless accepted by the city council of Cambridge, by concurrent vote of the two branches thereof, within thirty days from its passage. It shall be the duty of

Act to take effect when accepted by city council of Cambridge;

¹ Changed to thirty-six by St. 1870, c. 401, § 1.

the city clerk of the city of Cambridge to certify to the secretary of the commonwealth the result of the vote of the city council of said city as soon as may be, and if it shall appear that a majority of the votes of both branches of the city council is in favor of the acceptance of this act, said secretary shall immediately issue and publish his certificate declaring this act to have been duly accepted.

—and upon publication of certificate by secretary of commonwealth.

SECT. 11. So much of this act as authorizes and directs the submission of the question of acceptance to the city council of Cambridge shall take effect upon its passage. If this act is accepted as herein provided, it shall take full effect upon the publication of the certificate of the secretary, as herein provided.

June 1, 1870.

[1871, 250.]

1870. — CHAPTER 337.

AN ACT TO AMEND THE CHARTER OF THE CITY OF BOSTON.

Be it enacted, etc.:

Board of street commissioners established;

SECTION 1. The qualified voters of the city of Boston shall, at the annual municipal election next after the passage of this act, be called upon to give in their votes for three able and discreet men, being inhabitants of said city, who shall constitute the board of street commissioners of said city; one of whom shall be chosen for the term of one year, one for the term of two years, and one for the term of three years from the first Monday of January next ensuing, and until their successors are chosen and qualified; and at any subsequent annual election the qualified voters of the city shall choose one person, qualified as aforesaid, to be a member of said board, to serve for the term of three years.

—to have powers of board of aldermen concerning laying out streets and abatement of taxes;
102 Mass. 19.
123 Mass. 50.
P.S. 49, § 84.

SECT. 2. Said street commissioners shall have all the powers now exercised by the board of aldermen, concerning the laying out, altering, or discontinuing. the streets and ways of said city, and the powers now exercised by said board of aldermen in relation to the abatement of taxes.

—to make estimate of cost of laying out street.
If estimate exceeds \$10,000, matter to be determined by city council.

1872, 322.

SECT. 3. Whenever said board of street commissioners shall adjudge that the public safety and convenience require that any street, lane, or alley, in the said city shall be laid out, altered or discontinued, they shall make and record an estimate of the expense thereof; and if such estimate shall exceed the sum of twenty-five thousand dollars, or if such estimate with the estimates of any previous alteration or discontinuance of any part of said street, lane, or alley, during the municipal year, shall exceed the sum of twenty-five thousand dollars, the order for such laying out, alteration, or discontinuance, together with an estimate of the expense thereof, shall be sent to the city clerk, who shall forthwith lay the same before the city council for their concurrence or rejection; and such act shall not take effect or be in force until said city council shall concur therein: [*provided*, that if said council shall not act definitely thereon within thirty days after the time when the same shall have been laid before them, and cause a certified copy of their proceedings to be transmitted to said board of street commissioners, the order shall take effect at such time as said commissioners may determine].*

Proviso.

Compensation.
1879, 198.

SECT. 4. Said commissioners shall each receive an annual salary of not less than three thousand dollars, which shall be in full for their

* "Ten" inserted in place of "twenty-five" by St. 1872, c. 322.

* This proviso was stricken out by St. 1872, c. 322.

services, shall be fixed by the city council, and paid from the treasury of the city.

SECT. 5. Said commissioners shall appoint a clerk of said board, removable at pleasure, who shall have charge of the records of said board, and perform such clerical and other duties as may be required of him; he shall be sworn to the faithful performance of the duties of said office, and shall receive such salary for his services as the city council may determine, which shall be paid from the treasury of said city.

Clerk to be appointed by commissioners and compensation fixed by city council.

SECT. 6. Whenever a vacancy occurs in said board of street commissioners the same shall be filled by a concurrent vote of the city council; and the person so elected shall hold the office until his successor at the next municipal election shall be chosen and qualified.

Vacancies in board to be filled by concurrent vote of city council.

SECT. 7. All surveys and plans required by said commissioners shall be furnished by the said city surveyor, and he shall perform such other duties for said commissioners as they may require.

Surveys and plans required, to be furnished by city surveyor.

SECT. 8. All laws inconsistent herewith are hereby repealed.

June 11, 1870.

[1799, 81; 1804, 78; 1809, 28; 1816, 90; 1831, 17; 1833, 128; 1854, 448; 1872, 242, 322; 1877, 228; 1878, 75; 1879, 198.]

1870. — CHAPTER 365.

AN ACT TO INCORPORATE THE BUTCHERS' SLAUGHTERING AND MELTING ASSOCIATION IN BRIGHTON, AND FOR OTHER PURPOSES.

Be it enacted, etc.:

SECTION 1. Horace W. Baxter, Horace W. Jordan, and B. Francis Ricker, their associates and successors, are hereby made a corporation by the name of the Butchers' Slaughtering and Melting Association, to be located in the town of Brighton, for the purpose of carrying on the business of buying and slaughtering cattle, sheep, and other animals, and of melting and "rendering" establishments, subject, however, to the provisions hereinafter contained, and to all general laws now, or that may hereafter be, in force, applicable to such corporations.

Corporators.

SECT. 2. Said corporation may take and hold, by purchase or otherwise, such parcel of land, not exceeding one hundred acres in extent, and situated in Brighton, within two miles of the Cattle Fair hotel, as the state board of health shall, by vote, determine to be suitable for the carrying on of said business; and said corporation shall, within sixty days from the time it shall take any land, otherwise than by purchase, file in the office of the registry of deeds, for the county wherein said lands lie, a description thereof, as certain as is required in a common conveyance of lands, together with a statement of the purpose for which the lands are taken, which description and statement shall be signed by the president of the corporation.

May take and hold such land, not exceeding one hundred acres, as state board of health may determine. 1876, 144, § 1.

To file description of land in registry of deeds within sixty days.

SECT. 3. The said corporation shall be liable to pay all damages that shall be sustained by any persons in their property by the taking of any land for the purposes of this act. Any person who shall sustain damages as aforesaid, and who shall not agree upon the damages to be paid therefor, may apply by petition for the assessment of his damages at any time within one year from the taking of said land, to the superior court in the county in which said land is situate. Such petition may be filed in the clerk's office of said court in vacation or in term time, and the clerk shall thereupon issue a summons to said corporation, returnable, if issued in vacation, to the then next term of the said court, held fourteen days at least after the issuing of said

Damages, how to be ascertained, etc.

summons, and, if in term time, returnable on such day as the court shall order, to appear and answer to the said petition; the said summons shall be served fourteen days at least before the return day thereof, by leaving a copy thereof with the clerk of said corporation, and upon the return of said summons duly served, the said petition shall stand as a cause in said court, and all questions of fact relating to the damages sustained by the petitioner shall be heard and determined, and the amount of such damages shall be assessed by a jury of said court, unless the parties shall in writing waive their right to a jury trial and agree that the question of said damages shall be determined by the court; and the verdict of said jury, being accepted and recorded by said court, or the award of the court, if jury trial shall be waived, shall be final and conclusive, and judgment shall be rendered and execution issued thereon, and costs shall be recovered by the petitioner if the amount of said judgment shall exceed the amount offered him for his damage by said corporation before the filing of said petition; otherwise said corporation shall recover its costs.

Buildings to be erected and business to be carried on subject to approval of state board of health.

1870, 144, § 1.

SECT. 4. Said corporation shall proceed to build upon said land suitable buildings for the slaughtering of cattle, sheep, and other animals, and for melting and rendering purposes, and all necessary stables and out-buildings. But no buildings shall be erected until the plans thereof, with all details of construction, shall have been submitted to and approved by said state board of health, or some person designated by said board to examine said plans. All the business of said corporation shall be carried on in accordance with such regulations as said board shall from time to time establish and furnish in writing to the clerk of said corporation, and for each violation of any one of said regulations said corporation shall be liable to a fine of not less than twenty nor more than five hundred dollars, to be recovered by indictment against said corporation. Subject to the foregoing provisions said corporation may manufacture and sell any of the usual products of said slaughtering and melting business, or may lease or permit other persons to use their buildings or parts thereof on such terms as may be agreed upon. And each member of said corporation shall have the right to slaughter on the said premises, subject to such regulations and such tariff of prices as said corporation may, by vote at any regular meeting, establish, and to the regulations of the said board of health, as aforesaid. And any person engaged in slaughtering or other business on the premises of said corporation, who shall violate any of the said regulations of said board, shall be liable to the penalties hereinbefore affixed to violations thereof by said corporation.

Capital stock and shares.

SECT. 5. The capital stock of said corporation shall consist of two hundred thousand dollars, to be divided into shares of one hundred dollars each, and said corporation shall not take any land, as hereinbefore provided, or commence business until the sum of one hundred thousand dollars at least shall be paid in cash.

Board of health may order persons engaged in slaughtering within six miles of Faneuil Hall to slaughter on premises of this corporation.

Proviso.
Repealed by
1870, 144.

Supreme judicial court may enforce order of board of health.

SECT. 6. [The state board of health may, if in their judgment the public health shall require, order any person at any time engaged in the business of slaughtering within six miles of Faneuil Hall market in Boston, and not upon any island in the harbor, to slaughter his cattle, sheep, or other animals, upon the premises of said corporation: *provided*, that thirty days' notice of an intention to pass such an order shall be given to such person by said board, and that, after such notice is given, such person shall have continued to conduct his business in such a manner as, in the judgment of the board, is injurious to the public health; and the supreme judicial court, or any justice thereof, sitting in equity, shall have power to enforce any such order of said board by injunction. And whenever such board

shall make such order, as aforesaid, they shall also fix in said order the price per head which said party so served with said order shall pay to said corporation for the use of a place in its said building for slaughtering as aforesaid; but said price may be fixed as a certain sum of money, or as a certain portion of the animal with its blood and offal, and said corporation shall be bound to permit said party to slaughter on its premises on the terms so fixed by the order of said board, unless said corporation and said party shall agree upon some different terms. Any person aggrieved by any order of the board of health, as in this section provided, shall have the right to appeal from said order in the same manner and with the same effect as such right is now given in chapter twenty-six of the general statutes to a person aggrieved by an order of a town board of health, prohibiting the carrying on of offensive trades. In case of any appeal, as herein provided, the application for a jury shall be made to the superior court in the county wherein the party prohibited transacts his business, if in session in said county, or, in vacation, to any justice of said court.]

Right of appeal

Application for jury in case of appeal.

June 16, 1870.

1870. — CHAPTER 374.

AN ACT TO ANNEX A PORTION OF THE TOWN OF BROOKLINE TO THE CITY OF BOSTON.

Be it enacted, etc. :

SECTION 1. That part of the town of Brookline contained within the line described as follows: beginning at a point in the centre of the channel of Charles river on the boundary line between the town of Brookline and the city of Cambridge, where the westerly line of St. Mary's street, in the town of Brookline, extended in a northerly direction, would intersect the said boundary line; thence running southwardly by the westerly line of said St. Mary's street extended to the southerly line of Brighton avenue; thence continuing in the same direction by the westerly line of St. Mary's street, to the northerly line of Ivy street; thence turning a little and running southeasterly by the south-westerly line of St. Mary's street, and by the continuation of the same to the present boundary line between Boston and Brookline in the centre of the channel of Muddy river; thence easterly following said boundary line to the present boundary line in the centre of the channel of Charles river; thence by the centre of said channel of Charles river to the point of beginning, — with all the inhabitants and estates therein, is hereby set off from the town of Brookline and annexed to the city of Boston, and shall constitute a part of the sixth ward thereof, until a new division of wards shall be made; and such territory so annexed shall form part of the county of Suffolk: *provided*, that the said territory and the inhabitants thereon, set off as aforesaid, shall be holden to pay all such taxes as are already assessed or ordered to be assessed by said town of Brookline for the present year, in the same manner as if this act had not been passed: and *provided, further*, that all paupers who have gained a settlement in said town of Brookline, by a settlement gained or derived within said territory, shall be relieved or supported by said city of Boston, in the same manner as if they had a legal settlement in said city of Boston.

Portion of Brookline annexed to Boston.

To constitute a part of sixth ward of Boston and form part of county of Suffolk.

Provision.

SECT. 2. The said inhabitants hereby set off to the city of Boston shall continue to be a part of Brookline for the purpose of electing state officers and members of the executive council, senators and representatives to the general court, representatives to congress, and

Inhabitants set off to continue part of Brookline for electing state and national officers until next census, etc.

electors of president and vice-president of the United States, until the next decennial census shall be taken, or until another apportionment shall be made; and it shall be the duty of the board of aldermen of said city of Boston to make a true list of the persons residing on the territory hereby annexed to said city, qualified to vote at such elections, and post up the same in said territory, and correct the same as required by law, and deliver the same to the selectmen of said town of Brookline, seven days at least before any such election; and the same shall be taken and used by the selectmen of Brookline for such election, in the same manner as if it had been prepared by themselves.

Rights of drainage not affected.

SECT. 3. This act shall not be construed to divest or deprive the town of Brookline of any legal rights of drainage which it now possesses.

Subject to acceptance by city council of Boston.

SECT. 4. This act shall not take effect until accepted by the city council of Boston.¹

June 18, 1870.

1870. — CHAPTER 382.

AN ACT TO PROHIBIT THE TAKING OF BLACK BASS IN LAKE COCHITUATE.

Be it enacted, etc.:

Penalty for taking black bass.

Whoever catches, takes, or destroys, any black bass in the waters of Lake Cochituate in the towns of Natick, Wayland, or Framingham, in the county of Middlesex, shall forfeit for each offence not less than ten nor more than fifty dollars.

June 21, 1870.

1870. — CHAPTER 401.

AN ACT IN ADDITION TO "AN ACT CONCERNING THE DRAWS IN BRIDGES ACROSS CHARLES AND MILLER'S RIVER AT THE NORTH SIDE OF THE CITY OF BOSTON."

Be it enacted, etc.:

Draws to be thirty-six feet wide.

SECTION 1. Section one of chapter three hundred, section one of chapter three hundred and one, section seven of chapter three hundred and two, and section five of chapter three hundred and three of the acts of the current year, are hereby severally amended by striking out the words "thirty-eight feet" wherever the same occur, and inserting instead thereof the words "thirty-six feet."

SECT. 2. This act shall take effect upon its passage.

June 23, 1870.

[1870, 300, 302.]

1871. — CHAPTER 82.

AN ACT TO CEDE JURISDICTION TO THE UNITED STATES OVER CERTAIN LAND IN THE CITY OF BOSTON.

Be it enacted, etc.:

Jurisdiction ceded to United States of land for a post-office and sub-treasury.

SECTION 1. Jurisdiction is hereby ceded to the United States over the following described tract of additional land for the site of the new post-office and sub-treasury building in the city of Boston, when the United States shall have acquired title thereto. The said

¹ Accepted November 4, 1870.

additional land adjoins the tract already purchased by the United States in the block bounded by Devonshire, Water, Congress, and Milk streets, and is bounded and described as follows: beginning at the most north-westerly corner of said estate, at a point in the southerly line of Water street, said point being in the division line of property between land of the United States and land herein described, and also being the westerly corner of Water street and a common passage-way eleven feet wide; thence running eastwardly by Water street, there measuring eleven feet and one-third of an inch; thence southerly by land of the Merchants' Insurance Company, seventy-three feet and three inches; thence westwardly by land of the United States, eleven feet; thence northwardly by the same, seventy-two feet and eight and one-half inches to the point of beginning; containing eight hundred and twelve square feet, more or less, being a strip of land eleven feet wide, owned by said Merchants' Insurance Company, and over which the United States have a right of way: *provided, always*, that this commonwealth shall retain and does retain concurrent jurisdiction with the United States in and over all the lands aforesaid so far that civil and criminal processes, issuing under the authority of this commonwealth, may be executed on said land and in any buildings thereon erected, or to be erected thereon, in the same way and manner as if jurisdiction had not been granted as aforesaid: and *provided*, that the exclusive jurisdiction shall revert to and revest in the commonwealth of Massachusetts whenever said land shall cease to be used by the United States for public purposes.

State retains concurrent jurisdiction.

Proviso.

SECT. 2. This act shall be void unless a suitable plan of the additional land aforesaid shall be filed in the office of the secretary of the commonwealth within one year after the title shall be acquired as aforesaid.

Plan to be filed in secretary's office within one year.

SECT. 3. This act shall take effect upon its passage.

March 8, 1871.

1871. — CHAPTER 96.

AN ACT IN RELATION TO WIDENING BEACON STREET AND ADJACENT AVENUES IN THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. The board of street commissioners of the city of Boston, with the concurrence of the city council of said city, may widen, within the limits of said city, the following named streets and highways, viz.: Beacon street westerly from Gloucester street, Brighton avenue north-westerly from its intersection with Beacon street, and Brookline avenue south-westerly from its intersection with Beacon street, to such width as they in their judgment shall deem to be for the common benefit of the inhabitants of said city, and said city shall pay for the land and property so taken; which highways and streets said city of Boston shall not be obliged to complete sooner than the city council of said city may deem it expedient so to do.

Street commissioners may widen certain streets.

SECT. 2. This act shall take effect upon its passage.

March 11, 1871.

[1872, 242.]

1871. — CHAPTER 159.

AN ACT IN ADDITION TO "AN ACT FOR SUPPLYING THE CITY OF CHARLESTOWN WITH PURE WATER."

Be it enacted, etc. :

Water bonds of the city of Charlestown may be issued.

Proviso.

May be sold at public or private sale.

Net income to be applied to reduction of water debt.

SECTION 1. For the purpose of defraying the cost and expenses incurred by the city of Charlestown in the construction and extension of water works in said city, the city council of said city is hereby authorized to issue from time to time, scrip, notes, or certificates of debt, to be denominated on the face thereof, "Water bonds of the city of Charlestown," to an amount not exceeding one hundred and ten thousand dollars: *provided, however*, that the whole amount issued under this act and the acts to which this act is an addition, shall not exceed the cost of the construction and extension of said works. The said bonds shall bear interest at a rate not exceeding six per centum per annum, and shall be redeemable at a period of time not less than ten nor more than thirty years from and after the issue thereof. And said city council may sell the same, or any part thereof, from time to time, at public or private sale, on such terms and conditions as said city council shall judge proper.

SECT. 2. The income derived from water rates, under the several acts authorizing the construction and extension of water works in said city, after deducting cost of maintenance, and interest on the water bonds, shall be applied to the reduction of the water debt, and shall not be used for any other purpose whatever.

SECT. 3. This act shall take effect upon its passage.

April 3, 1871.

[1861, 105; 1863, 9; 1864, 176; 1865, 135; 1870, 216; 1872, 85.]

1871. — CHAPTER 183.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO PAY CHARLES BURRILL THE SUM OF FORTY THOUSAND DOLLARS.

Be it enacted, etc. :

Boston authorized to pay Charles Burrill \$40,000.

124 Mass. 466.

SECTION 1. The city of Boston is hereby authorized to pay to Charles Burrill, of Brookline, the sum of forty thousand dollars, in satisfaction for all services rendered and money expended by him, in procuring credits upon the quota of volunteers of said city, during the war of the rebellion, in conformity to the order passed by the city council of said city, and approved September twelfth, eighteen hundred and seventy, and may raise said sum by taxation or otherwise.

SECT. 2. This act shall take effect upon its passage.

April 14, 1871.

1871. — CHAPTER 185.

AN ACT IN ADDITION TO "AN ACT TO AUTHORIZE THE CITY OF BOSTON TO BUILD AN ADDITIONAL RESERVOIR."

Be it enacted, etc. :

Cochituate water board may lay new main pipes from reservoir.

1865, 131.

SECTION 1. The city of Boston is hereby authorized, by and through the agency of the Cochituate water board therein, to construct an aqueduct, or to lay new main pipes from its reservoir constructed under the provisions of the one hundred and thirty-first chapter of the acts of the year eighteen hundred and sixty-five, through the

towns of Brighton and Brookline, to the city of Boston, and to continue the same into and through the city of Boston, in the manner provided in the one hundred and sixty-seventh chapter of the acts of the year eighteen hundred and forty-six; and for this purpose may take and hold, by purchase or otherwise, any lands or real estate necessary therefor; and may construct said aqueduct, or lay said pipes, over or under any water-course, or any streets, turnpike roads, railroads, highways, or other ways, in such manner as not to obstruct or impede the travel thereon; and may enter upon and dig up any such roads, streets, or ways, for the purpose of constructing said aqueduct, or laying down said pipes beneath the surface thereof, and for maintaining and repairing the same; but always in such manner and with such care as not to render the roads, streets, and ways, unsafe or unnecessarily inconvenient to the public travel thereon. And said city of Boston, in performing said work, shall be subject to such reasonable regulations as to time, place, and manner, of digging up any streets or ways of public travel for the purpose aforesaid, and the laying of said pipes, as shall be made by the selectmen of Brighton and of Brookline, within their respective limits, for the protection of their rights of drainage and sewerage therein.

May take lands,
etc.

City of Boston
to be subject to
reasonable reg-
ulations pre-
scribed by
Brighton and
Brookline.

SECT. 2. Whenever the city of Boston shall dig up any street or way, as aforesaid, it shall restore the same to as good order and condition as the same shall be in when such digging commenced; and the city of Boston shall at all times indemnify and save harmless the town of Brighton and the town of Brookline, against all damage which may be recovered against them, respectively, and shall reimburse to them, respectively, all expenses which they shall incur by reason of any defect or want of repair in any street or way, caused by the construction of said aqueduct or the laying of said pipe, or by the maintaining or repairing of the same: *provided*, that said city shall have due and reasonable notice of all claims for such damages or injury, and opportunity to make a legal defence thereto.

Streets to be
restored to good
order and con-
dition.

Towns to be re-
imbursed by
Boston for dam-
ages paid for de-
fects in high-
ways.

SECT. 3. The city of Boston shall be liable to pay all damages that shall be sustained by any persons in their property by the taking of any land or real estate, or constructing of said aqueduct, or the laying of said pipe as aforesaid; and any person sustaining damage as aforesaid may have the same ascertained, determined, collected, and paid, in the manner which is provided in the sixth, seventh, and eighth sections of the one hundred and sixty-seventh chapter of the acts of the year eighteen hundred and forty-six.

Liability of
Boston for dam-
ages for taking
land.

SECT. 4. The selectmen of the town of Brighton and the selectmen of the town of Brookline may require the city of Boston, while constructing said aqueduct, or laying down said pipe, within their respective limits, to insert therein a number of hydrants, at points not less than five hundred feet apart, to be used for the purpose of extinguishing fires, and no other purpose; and the town of Brighton and the town of Brookline shall pay the expenses of keeping in repair all such hydrants as shall be so inserted, upon their respective requisitions, after the same shall have been constructed.

Hydrants to be
constructed in
Brighton and
Brookline upon
request of se-
lectmen.

SECT. 5. This act shall not take effect until the same shall have been accepted by the city council of the city of Boston.¹

Subject to ac-
ceptance by city
council of
Boston.

April 14, 1871.

[1846, 167; 1865, 131.]

¹ Accepted June 16, 1871.

1871. — CHAPTER 225.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO TAKE AND HOLD LAND, AND OTHER PROPERTY, FOR A LANDING FOR THE EAST BOSTON FERRY BOATS.

Be it enacted, etc. :

Boston may take or purchase land for landing of East Boston ferry boats.

SECTION 1. The city of Boston is hereby authorized and empowered to take and hold, by purchase or otherwise, so much of the land, flats, docks, and wharves, lying easterly of Atlantic avenue, and between Commercial wharf and India wharf, as it may deem necessary for the purposes of a landing for the East Boston ferry boats, for the erection of such buildings and other structures as may be necessary or suitable to such landing and for convenient access thereto: *provided*, that so much of said property as cannot be obtained by purchase, shall be taken by said city of Boston within two years from the passage of this act.

Description of land taken to be filed in office of register of deeds.

SECT. 2. The city of Boston shall, within sixty days from the time when it shall take any parcel or parcels of land, flats, docks, or wharves, under this act, file in the office of the register of deeds for the county of Suffolk, and cause to be recorded, a description of the property so taken, as certain as is required in a common conveyance of land, with a statement of the purpose for which it is taken, which description and statement shall be signed by the mayor of the city; and the city of Boston shall be liable to pay all damages that shall be sustained by any person or persons by reason of the taking of the property aforesaid; such damages to be ascertained and determined in the manner provided for ascertaining and determining damages in case of laying out, altering, or discontinuing, ways within the said city of Boston.

Liability for damages.

SECT. 3. This act shall take effect upon its passage.

April 27, 1871.

[1869, 155.]

1871. — CHAPTER 250.

AN ACT IN ADDITION TO AN ACT RELATING TO WEST BOSTON AND CRAGIE BRIDGES.

Be it enacted, etc. :

Shoal to be dredged opposite draw-way of West Boston bridge.

SECTION 1. The commissioners designated in the sixth section of chapter three hundred and two of the acts of the year eighteen hundred and seventy, are hereby authorized, for the purpose of preparing the location of a new draw in the West Boston bridge to cause to be dredged away a shoal opposite the south-westerly opening of the present draw-way in said bridge, to such an extent as the harbor commissioners shall prescribe, the expense of which dredging shall be borne in the same manner as the expense of constructing said new draw; and the cities of Boston and Cambridge shall maintain the depth of water secured by such dredging, in the same manner and according to the same terms and proportions as they are required by said act to maintain, support, manage, and keep in repair, the bridges and draws therein mentioned.

Boston and Cambridge to maintain depth of water obtained by such dredging.

SECT. 2. This act shall take effect upon its passage.

May 5, 1871.

[1870, 302.]

1871. — CHAPTER 259.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO EXTEND ATLANTIC AVENUE.

Be it enacted, etc.

SECTION 1. The city of Boston, through its proper authorities for laying out and altering streets, is hereby authorized to lay out and build a street or streets over tide-waters between the southerly end of Atlantic avenue at Rowe's wharf, as now laid out, following the curve in Broad street from said Rowe's wharf to Packard's or Fort Hill wharf, and from thence across the wharves and docks to Federal street bridge on the easterly side thereof, or to such other points north of the aforesaid bridge as said authorities may determine; with liberty to widen said Federal-street bridge to a sufficient width for the additional travel over the same: *provided*, that said avenue shall be so constructed that the outer line thereof shall be at least three hundred feet distant from the commissioners' line on the northerly side of Fort-point channel.

Boston may extend Atlantic avenue over tide-waters.

Proviso.

SECT. 2. The owners of wharves crossed by the said extension of Atlantic avenue may extend their said wharves to the commissioners' line: *provided*, they so build out within two years from the laying out of said addition to Atlantic avenue.

Owners may extend wharves to commissioners' line.

SECT. 3. This act shall take effect upon its passage.

May 9, 1871.

1871. — CHAPTER 273.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO CONSTRUCT A WHARF IN SOUTH BOSTON.

Be it enacted, etc.:

SECTION 1. The city of Boston is hereby authorized to construct a solid wharf on its flats between M and O streets extended, on the northerly shore of South Boston, within such limits and in such manner as the board of harbor commissioners shall prescribe; subject to section four of chapter one hundred and forty-nine of the acts of the year eighteen hundred and sixty-six, and chapter four hundred and thirty-two of the acts of the year eighteen hundred and sixty-nine, so far as the same may be applicable.

City of Boston may construct a wharf. P.S. 19, §§ 8, 12, 13.

SECT. 2. This act shall take effect upon its passage.

May 9, 1871.

1871. — CHAPTER 280.

AN ACT TO PROVIDE FOR THE REGULATION AND INSPECTION OF BUILDINGS, THE MORE EFFECTUAL PREVENTION OF FIRE, AND THE BETTER PRESERVATION OF LIFE AND PROPERTY IN THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. There is hereby created in the city of Boston an executive department, to be known and designated as the department for the survey and inspection of buildings, which shall have charge of enforcing the several provisions of this act. And the said department shall be provided with office room and all the necessary supplies for the proper transaction of its business.

Department for survey and inspection of buildings created.

SECT. 2. In the construction of this act, if not inconsistent with the context, the following terms shall have the respective meanings hereinafter assigned to them: —

- External wall.** "External wall" shall apply to every outer wall or vertical enclosure of a building, other than a party-wall.
- Party-wall.** "Party-wall" shall apply to every wall used, or built, as a separation of any building, from any other building with the view to the same being occupied by different persons.
- Foundation wall.** "Foundation wall" shall be understood to mean that portion of external walls below the level of the street curb, and, for walls not on any street, that portion of the wall below the level of the ground outside of the wall.
- Partition wall.** "Partition wall" shall be understood to mean any interior wall of masonry in a building.
- Tenement-house 1873, §38.** A "tenement-house" shall be taken to mean and include every house, building, or portion thereof, which is rented, leased, let or hired out to be occupied, or is occupied as the house or residence of more than three families living independently of another, and doing their cooking upon the premises, or by more than two families upon a floor, so living and cooking, but having a common right in the halls, stairways, yards, water-closets or privies, or some of them.
- Lodging-house.** A "lodging-house" shall be taken to mean and include any house or building, or portion thereof, in which persons are lodged for hire for a single night or for less than a week at one time.
- Cellar.** A "cellar" shall be taken to mean and include every basement or lower story of any building or house, of which one-half or more of the height from the floor to the ceiling is below the level of the street adjoining.
- City council to define limits within which buildings must conform to this act.** **SECT. 3.** The city council of the city of Boston shall, within sixty days after the passage of this act, establish and define the limits within which all buildings thereafter erected shall conform to the provisions of this act; and said city council may, from time to time, by ordinance, extend and define the said limits as they may deem proper, due legal notice being given thereof.
- Inspector of buildings.** **SECT. 4.** The chief officer of the said department for the survey and inspection of buildings shall be called the inspector of buildings. He shall be appointed by the mayor, and confirmed by the city council. He shall hold office for the term of three years, or until his successor shall take office, but may be sooner removed by the city council for malfeasance, incapacity, or neglect of duty.
- Clerk and assistant-inspectors.** **SECT. 5.** The subordinate officers of the said department shall consist of a clerk, and such number of assistant-inspectors as the city council may, from time to time, determine, all of whom shall be appointed by the inspector, with the approval of the mayor. The assistant-inspectors and clerk shall hold office for the term of two years, but may be sooner removed by the inspector, with the approval of the mayor, for malfeasance, incapacity, or neglect of duty.
- Inspector and assistants to be able mechanics.** **SECT. 6.** The inspector and assistant-inspectors of the said department shall be able and experienced mechanics, competent to perform all the duties of the office to which they are appointed.
- Duties of inspector.** **SECT. 7.** It shall be the duty of the inspector of buildings to sign all certificates and notices required to be issued under this act from said department.
- To make return of all violations, except those mentioned in section fifty, to the city solicitor for prosecution.
- To have kept in proper books for that purpose a register of all transactions of said department.
- To submit to the city council a half-yearly statement in detail of such transactions.
- To enter upon the premises wherein any fire has occurred, if necessary, in order to investigate the origin of the fire.

And, further, to perform such other duties as are herein required of him.

He shall also have a general supervision and direction over the subordinate officers of the department.

SECT. 8. The assistant inspectors of buildings, if such officers are appointed, shall, under the direction of the inspector of buildings, attend all fires occurring in the districts to which they are respectively assigned, and report to the chief or assistant-engineer of the fire department present all information they may have relative to the construction and condition of the premises on fire, and also any such information relating to the adjoining buildings.

Assistant inspectors to attend fires and report condition of premises on fire.

SECT. 9. The inspector or assistant-inspectors shall examine all buildings in the course of erection, alteration, or repair, throughout the city, as often as practicable, and shall make a record of all violations of any of the several divisions of this act, together with the street and number where such violations are found, the names of the owner, lessee, occupants, architect and master mechanics, and all other matters relative thereto. It shall also be the duty of the inspector or assistant-inspectors to examine all buildings reported dangerous, or damaged by fire or accident, and to make a record of such examinations, including the nature and amount of such damage, with the name of the street and number of the building, the names of the owner, lessee, and for what purpose occupied, and, in case of fire, the probable origin thereof; to examine all buildings under application to raise, enlarge, alter, or build upon, and to make a record of the condition of the same. Said records shall always be open to the inspection of the engineers of the fire department, or any officer of the city.

Inspectors to examine buildings in course of erection;

— to examine buildings reported dangerous.

Records subject to inspection of engineers.

SECT. 10. In the absence of the inspector of buildings, one of the assistant-inspectors may be appointed by him to act as his deputy, with the same powers exercised by him.

If inspector is absent, assistant may be appointed his deputy.

SECT. 11. All the officers appointed under this act shall, so far as may be necessary for the performance of their respective duties, have the right to enter any building or premises in the city of Boston.

Officers may enter any building.

SECT. 12. The compensation of the officers appointed under this act shall be fixed by the city council of Boston.

Compensation.

REGULATION AND SUPERVISION OF BUILDINGS.

SECT. 13. The following buildings and works shall be exempt from the operations of this act: —

Buildings exempt.

Bridges, quays, wharves.

Buildings belonging to, or occupied by, the government of the United States and the commonwealth of Massachusetts.

SECT. 14. With the exceptions hereinbefore or hereinafter mentioned, this act shall apply to all buildings hereafter erected within the building limits of the city of Boston, and to all tenement or lodging-houses, and all buildings built of brick, stone, or other non-combustible material, outside of the said limits, but within the city of Boston.

To what buildings provisions apply.

SECT. 15. Any work of alteration or addition made or done for any purpose in, to, or upon, any building, except that of necessary repairs not affecting the construction of the external or party-walls, chimneys, or stairways, of a building, shall, to the extent of such work of alteration or addition, be subject to the regulations of this act.

Alterations or additions to buildings.

SECT. 16. [No wooden or frame building shall hereafter be built within the said building limits of the city of Boston; and no wooden addition shall be made to any building within said limits which shall exceed fifteen feet in height from the ground.

No wooden or frame building to be hereafter erected. Substitute, 1872, c. 280, § 1.

No wooden building to be moved in.

City council may authorize erection of wooden buildings outside of said limits.

Repairs may be made upon wooden buildings already built.

No wooden building shall be moved from any lot outside of the said limits to any lot within the said limits.

The city council of the city of Boston may authorize the erection of wooden buildings outside of said limits, but within said city, upon such terms and conditions and subject to such limitations and restrictions as they may deem expedient.]

SECT. 17. It shall, however, be lawful for the owner, or other party interested, to make any necessary repairs upon any wooden or frame building already built, provided that the height of said building shall not be increased.

It shall also be lawful to substitute for a pitch roof, a flat roof covered with metal or other non-combustible material.

No building now erected, or hereafter to be erected, shall be altered, raised, roofed, enlarged, or otherwise built upon in any manner contrary to the terms of this act.

Permit for building to be obtained of inspector.

Alterations.

Grade.

Buildings for public assemblies.

If inspector prohibits, owner may appeal to committee of experts.

SECT. 18. No building shall be erected hereafter in any part of the city of Boston, without a permit being first obtained from the inspector of buildings; and no addition or alteration to any building, subject to the regulations of this act, shall be made without a permit from said inspector; and said inspector shall designate, in all permits for the erection of new buildings, the grade below which the floor of the basement story of said building shall not be laid.

SECT. 19. The inspector of buildings shall not give a permit for the erection of any building to be used for public assemblies, until he has carefully inspected the plans and specifications thereof, and ascertained that the building has sufficient strength, and that the means of ingress and egress are sufficient; and a copy of said specification shall be deposited in the office of said inspector. If in any case the inspector shall see fit to prohibit the erection or alteration of any building according to the plan as submitted, and such decision shall appear to the owner or architect to be unreasonable, the owner or architect shall have the right of appeal to a committee of five experts, who shall be architects, engineers, or master-builders, two of whom shall be chosen by the said owner or architect, and two by the inspector of buildings, the fifth one to be chosen by the other four, and their decision shall be final.

Every building to be built of brick, stone, or iron.

SECT. 20. Every building shall be built of brick, stone, iron, or other hard and incombustible material, and with foundations resting upon the solid ground, not less than four feet below the surface exposed to frost, or upon concrete, piles, or other solid substructure.

Every wall constructed of brick, stone, or other similar substance, shall be properly bonded and solidly built with mortar or cement.

The thickness of every wall, as hereinafter determined, shall be the minimum thickness, as applied to solid walls.

The height of every external or party-wall, as referred to in this act, shall be measured from the level of the top of the foundation wall to its highest point.

Dimensions of foundation walls for dwelling-houses.

[SECT. 21.¹ For dwelling-houses not exceeding thirty-five feet in height, foundation walls, laid with block stone in horizontal courses, or in brick laid in cement, shall not be less than sixteen inches thick, and external and party-walls of brick shall not be less than eight inches thick.

For dwelling-houses exceeding thirty-five and not exceeding fifty-five feet in height, foundation walls laid with block stone in horizontal courses shall be not less than eighteen inches thick; if of brick the foundation must be sixteen inches thick and laid in cement. External brick-walls shall be not less than twelve inches thick; party-walls of brick not less than twelve inches thick to the top of the

¹ Substitute adopted, 1872, 371, § 2.

second floor above the street, and not less than eight inches thick for the remaining height.

For dwelling-houses exceeding fifty-five feet in height, foundation walls laid with block stone in horizontal courses, or brick laid in cement, shall be not less than twenty inches thick, the external and party-walls not less than twelve inches thick for the entire height.

The thickness of foundation walls laid with irregular rubble work shall be one-fourth greater than the thickness given for block stone walls].

SECT. 22. [Buildings other than dwelling-houses shall have walls of the following thickness:—

Dimensions of foundation walls for buildings other than dwelling houses.

For buildings not exceeding thirty-five feet in height the foundation walls, laid in block stone in horizontal courses, shall not be less than eighteen inches thick. The external and party-walls not less than twelve inches thick to the top of the upper floor, and not less than eight inches for the remaining height.

For buildings exceeding thirty-five and not exceeding fifty-five feet in height the foundation walls, laid in block stone, shall not be less than two feet thick. The external and party-walls not less than sixteen inches thick to the top of the highest floor, and not less than twelve inches thick for the remaining height.

Repealed by 1872, 260, § 3; 1872, 371, § 1.

For buildings exceeding fifty-five feet in height the foundation walls, laid with block stone in horizontal courses, shall be not less than thirty inches thick. External and party-walls not bearing floor timbers, not less than sixteen inches thick to the top of the highest floor, and not less than twelve inches thick for the remaining height. External or party-walls, bearing floor timbers, not less than twenty inches thick to the top of the second floor above the street, and not less than sixteen inches thick from the top of the second floor above the street to the top of the highest floor, and not less than twelve inches thick for the remaining height.

The bottom course for all foundation walls resting upon the ground shall be, at least, twelve inches wider than the thickness above given for the foundation walls.]

SECT. 23. Piers or columns supporting walls of masonry shall have for a footing course a broad leveller, or levellers, of block stone not less than sixteen inches thick, and with a bearing surface equal in area to the square of the width of the footing course, plus one foot required for a wall of the same thickness and extent as that borne by the pier or column.

Piers or columns supporting walls of masonry.

And if the foundation of such piers or columns rests upon piles a sufficient number shall be driven to insure a proper support.

SECT. 24. Where piles are driven for a foundation, they shall be of suitable stock, and driven to a firm and solid bearing upon "hard pan,"—to be ascertained by boring.

Piles for foundation.

The tops of the piles shall be cut off on a level below the natural level of the water, as it stands in the ground during the summer months.

It shall be the duty of the inspector of buildings to give the grades at which piles may be cut off.

Buildings exceeding thirty-five feet in height shall have not less than two rows of piles under all external and party-walls, and the piles shall be spaced not over three feet on centres in the direction of the length of the wall.

SECT. 25. Recesses and openings may be made in external walls, provided the thickness of the backs of such recesses be not less than eight inches, and provided the whole area of all the recesses and openings in any wall do not exceed one-half of the area of said wall.

Recesses and openings in walls.

Whenever it becomes desirable to cut a door-way through any party-wall separating two buildings, a notice of the intention to do so shall be filed with the inspector of buildings.

Any such door-way shall not exceed ten feet in height by eight feet in width, and shall have top, bottom, and sides, of stone, brick, or iron.

Door-way to be closed with iron doors.

The said door-way shall be closed by two sets of wrought-iron or metal-covered doors, hung to rebated iron frames, and separated by the thickness of the wall. And whenever such door-way ceases to be used it shall be immediately filled up with masonry.

No continuous vertical recess of more than four inches in depth shall be made in any twelve-inch party-wall, and no recess of any kind shall be made in any eight-inch party-wall.

Enclosing walls to be tied by wall irons.

SECT. 26. All the enclosing walls of a building shall be tied in by means of wall irons, built into the wall, and turned up back, not less than eight inches of brick-work, and fastened to the floor so that there shall be a continuous tie every ten feet across the building on each floor, as far as practicable.

Party-walls above the roof.

SECT. 27. All party-walls shall be built up, at least, six inches above the flat of the roof of the highest building of which such wall forms a part, for the full extent of the flat. And where there is a mansard or pitch roof the party-wall shall be built up to the under side of the roof covering, which shall be laid and imbedded in mortar upon said wall.

To be four inches of brick-work between floor timbers in same wall from opposite side. Exterior walls faced with stone.

SECT. 28. In all buildings hereafter built there shall be not less than four inches of solid brick-work between the floor timbers built into the same party-wall from opposite sides.

SECT. 29. Exterior walls, faced with stone, shall have a backing of not less than eight inches of hard brick-work, laid in mortar. But in no case shall the thickness of stone and backing, taken together, be less than the thickness required for a brick wall of the same height.

The stone facing of a wall shall always be securely tied to the brick backing by means of metal clamps. All brick facings must be securely tied to the backing at least every tenth course.

Stone cornice.

In all cases where a wall is finished with a stone cornice, the greatest weight of material of such cornice shall be on the inside of the face of the wall, so that the cornice shall firmly balance upon the wall.

Buildings to be roofed with slate or tin.

SECT. 30. All buildings hereafter built shall be roofed with slate, tin or other non-combustible roofing material, and all buildings shall have a scuttle not less than two by three feet, with a permanent step-ladder or flight of stairs thereto.

Chimneys.

Brick flues.

SECT. 31. All chimneys shall be built of brick, stone, or other fire-proof non-conducting material. All brick flues shall be smoothly plastered inside with mortar from top to bottom and outside below the roofing.

Brick flues, not starting from the foundation walls, shall be securely built into the brick-work of the walls to which they are hung. In no case shall chimneys rest upon any flooring without a footing of masonry or iron supported by iron beams, having a secure bearing on masonry or iron at either end.

All flues shall be topped out at least four feet above the roof of the building to which they belong. The brick topping out of chimneys shall not have more than two inches projection, unless covered by a cap of metal or stone properly secured.

Hearths of fire-places.

Hearths of fireplaces or grates shall be laid upon brick or other trimmer arches, or upon bars of iron supporting a bed of brick-work.

No wood-work of any kind shall be placed at a less distance than

one inch from the outside brick-work of any flue. In no cases shall a nail be driven into the masonry of any flue.

SECT. 32. All buildings hereafter built within the above limits shall have proper brick, iron, or tile, drains laid with air-tight joints, with a proper pitch to the city sewer, and shall be properly entered therein. Drains to enter city sewer.

SECT. 33. All buildings built upon filled or made land shall have a bed of concrete, made of hydraulic cement and gravel, or tar and gravel, spread over the cellar bottom, or shall be paved with brick laid in cement throughout the whole extent of the building; and where there is a basement floor over the cellar bottom, leaving an air-space between the concrete and said floor, the air-space shall be ventilated by an opening into a flue in the chimney of the building. Buildings on made land to have cellar bottom covered with concrete or paved with brick laid in cement.

TENEMENT OR LODGING HOUSES.

SECT. 34. No house, building, or portion thereof, in the city of Boston, used, occupied, leased, or rented for a tenement or lodging house, shall continue to be so used, occupied, leased, or rented, unless the same, on the requisition of the board of health, shall conform in its construction and appurtenances to the provisions of this act. And the inspector of buildings shall see that the requisitions of the board of health in regard to the repair and alterations of tenement or lodging houses are properly carried out; and shall approve all plans for the construction of new tenement or lodging houses. If in any case the inspector shall see fit to prohibit the erection of the building according to the plan, the owner or architect shall have the right of appeal, as provided in section nineteen. Tenement or lodging houses not to be occupied unless provisions are complied with.

SECT. 35. The exterior walls of all tenement or lodging houses hereafter erected shall be of brick or stone; and those hereafter erected on streets not more than twenty feet in width shall not exceed thirty feet in height. Exterior walls of tenement-houses to be of brick or stone.

SECT. 36. Every house, building, or portion thereof, in the city of Boston, designed to be used, occupied, leased, or rented, or which is used, occupied, leased, or rented, for a tenement or lodging house, shall have in every room which is occupied as a sleeping-room, and which does not communicate directly with the external air, a ventilating or transom window, having an opening or area of three square feet over the door leading into and connected with the adjoining room, if such adjoining room communicates with the external air; and also a ventilating or transom window, of the same opening or area, communicating with the entry or hall of the house, or where this is, from the relative situation of the rooms, impracticable, such last-mentioned ventilating or transom window shall communicate with an adjoining room that itself communicates with the entry or hall. Every such house or building shall have in the roof, at the top of the hall, an adequate and proper ventilator, of a form approved by the inspector of buildings. Ventilation of tenement and lodging houses.

SECT. 37. Every such house shall be provided with a proper fire-escape, or means of escape in case of fire, to be approved by the inspector of buildings. Fire-escape.

SECT. 38. The roof of every such house shall be kept in good repair and so as not to leak, and all rain-water shall be so drained or conveyed therefrom as to prevent its dripping on ground or causing dampness in the walls, yard, or area. All stairs shall be provided with proper balusters or railings, and shall be kept in good repair. Roof to be kept tight.

SECT. 39. Every such building shall be provided with good and sufficient water-closets, earth-closets, or privies, of a construction approved by the inspector of buildings, and shall have proper doors, Water-closets, earth-closets and privies.

Proviso.

traps, soil-pans, and other suitable works and arrangements, so far as may be necessary, to insure the efficient operation thereof. Such water-closets or privies shall not be less in number than one to every twenty occupants of said house; but water-closets and privies may be used in common by the occupants of any two or more houses: *provided*, the access is convenient and direct; and *provided*, the number of occupants in the houses for which they are provided shall not exceed the proportion above required for every privy or water-closet. Every such house situated upon a lot on a street in which there is a sewer, shall have the water-closets or privies furnished with a proper connection with the sewer, which connection shall be in all its parts adequate for the purpose, so as to permit entirely and freely to pass whatever enters the same. Such connection with the sewer shall be of a form approved by the inspector of buildings, and all such water-closets and vaults shall be provided with the proper traps, and connected with the house-sewer by a proper tight pipe, and shall be provided with sufficient water and other proper means of flushing the same; and every owner, lessee, and occupant, shall take due measures to prevent improper substances from entering such water-closets or privies or their connections, and to secure the prompt removal of any improper substances that may enter them, so that no accumulation shall take place, and so as to prevent any exhalations therefrom, offensive, dangerous, or prejudicial, to life or health, and so as to prevent the same from being or becoming obstructed. No cesspool shall be allowed in or under or connected with any such house, except when it is unavoidable, and in such case it shall be constructed in such situation and in such manner as the inspector of buildings may direct. It shall in all cases be water-tight, and arched or securely covered over, and no offensive smell or gases shall be allowed to escape therefrom, or from any privy or privy-vault. In all cases where a sewer exists in the street upon which the house or building stands, the yard or area shall be so connected with the same that all water, from the roof or otherwise, and all liquid filth shall pass freely into it. Where no sewer exists in the street, the yard or area shall be so graded that all water, from the roof or otherwise, and all filth, shall flow freely from it and all parts of it, into the street gutter, by a passage beneath the sidewalk, which shall be covered by a permanent cover, but so arranged as to permit access to remove obstructions or impurities.

Cesspool.

Cellars and underground rooms used as dwellings.

SECT. 40. From and after the passage of this act it shall not be lawful, without a permit from the board of health or superintendent of health, to let or occupy, or suffer to be occupied separately as a dwelling, any vault, cellar, or underground room, built or rebuilt after said date, or which shall not have been so let or occupied before said date. And it shall not be lawful, without such permit, to let or continue to be let, or to occupy, or suffer to be occupied, separately as a dwelling, any vault, cellar, or underground room, whatsoever, unless the same be in every part thereof at least seven feet in height, measured from the floor to the ceiling thereof, nor unless the same be for at least one foot of its height above the surface of the street or ground adjoining or nearest to the same, nor unless there be outside of and adjoining the said vault, cellar, or room, and extending along the entire frontage thereof, and upwards from six inches below the level of the floor thereof, up to the surface of the said street or ground, an open space of at least two feet and six inches wide in every part, nor unless the same be well and effectually drained by means of a drain, the uppermost part of which is one foot at least below the level of the floor of such vault, cellar, or room, nor unless there is a clear space of not less than one foot below the level of the

floor except where the same is cemented, nor unless there be appurtenant to such vault, cellar, or room, the use of a water-closet or privy, kept and provided as in this act required, nor unless the same have an external window-opening of at least nine superficial feet clear of the sash-frame, in which window-opening there shall be fitted a frame filled in with glazed sashes, at least four and a half superficial feet of which shall be made so as to open for the purpose of ventilation : *provided, however*, that in case of an inner, or back vault, cellar, or room, let or occupied along with a front vault, cellar, or room, as a part of the same letting or occupation, it shall be a sufficient compliance with the provisions of this act, if the front room is provided with a window as herein before provided, and if the said back vault cellar, or room is connected with the front vault, cellar, or room by a door, and also by a proper ventilating or transom window, and, where practicable, also connected by a proper ventilating or transom window, or by some hall or passage, or with the external air : *provided, always*, that in any area adjoining a vault, cellar, or underground room, there may be steps necessary for access to such vault, cellar, or room if the same be so placed as not to be over, across, or opposite to, said external window and so as to allow between every part of such steps and the external wall of such vault, cellar, or room, a clear space of six inches at least, and if the rise of said steps is open : and *provided, further*, that over or across any such area there may be steps necessary for access to any building above the vault, cellar, or room, to which such area adjoins, if the same be so placed as not to be over, across, or opposite to, any such external window.

Providso.

Providso.

Providso.

SECT. 41. From and after the passage of this act, no vault, cellar, or underground room, in any tenement or lodging house, shall be occupied as a place of lodging or sleeping, except the same shall be approved in writing, and a permit given therefor by the board of health or superintendent.

Cellars not to be occupied for lodging, etc., except by permission of board of health.

SECT. 42. Every tenement or lodging house shall have the proper and suitable conveniences or receptacles for receiving garbage and other refuse matters. No tenement or lodging house, or any portion thereof, shall be used as a place of storage for any combustible article, or any article dangerous to life or detrimental to health ; nor shall any horse, cow, calf, swine, pig, sheep, or goat be kept in said house.

Receptacle for garbage and other refuse matters.

SECT. 43. Every tenement or lodging house, and every part thereof, shall be kept clean and free from any accumulation of dirt, filth, garbage, or other matter, in or on the same, or in the yard, court, passage, area, or alley, connected with or belonging to the same. The owner or keeper of any lodging-house, and the owner or lessee of any tenement-house, or part thereof, shall thoroughly cleanse all the rooms, passages, stairs, floors, windows, doors, walls, ceilings, privies, cesspools, and drains thereof of the house, or part of the house, of which he is the owner or lessee, to the satisfaction of the board of health, so often as shall be required by or in accordance with any regulation or ordinance of said city, and shall well and sufficiently, to the satisfaction of said board, whitewash the walls and ceilings thereof twice at least every year, in the months of April and October, unless the said board shall otherwise direct. Every tenement or lodging house shall have legibly posted or painted on the wall or door in the entry, or some public accessible place, the name and address of the owner or owners and of the agent or agents, or any one having charge of the renting and collecting of the rents for the same ; and service of any papers required by this act, or by any proceedings to enforce any of its provisions, or of the acts relating

Tenement houses to be kept clean.

Walls and ceilings to be whitewashed twice a year.

to the board of health, shall be sufficient, if made upon the person or persons so designated as owner or owners, agent or agents.

Keeper of lodging-house and owner of tenement to give free access to officers;

—to give notice of contagious diseases, etc.

SECT. 44. The keeper of any lodging-house, and the owner, agent of the owner, lessee and occupant of any tenement-house, and every other person having the care or management thereof, shall at all times, when required by any officer of the board of health, or by any officer upon whom any duty or authority is conferred by this act, give him free access to such house and to every part thereof. The owner or keeper of any lodging-house, and the owner, agent of the owner, and the lessee of any tenement-house, or part thereof, shall, whenever any person in such house is sick of fever, or of any infectious, pestilential, or contagious, disease, and such sickness is known to such owner, keeper, agent, or lessee, give immediate notice thereof to the board of health, or to some officer of the same, and thereupon said board shall cause the same to be inspected, and may, if found necessary, cause the same to be immediately cleansed or disinfected at the expense of the owner, in such manner as they may deem necessary and effectual; and they may also cause the blankets, bedding, and bedclothes, used by any such sick person to be thoroughly cleansed, scoured, and fumigated, and in extreme cases to be destroyed.

Board of health may cause premises to be vacated when unfit for habitation.

SECT. 45. Whenever it shall be certified to the board of health by the superintendent, that any building, or part thereof, is unfit for human habitation, by reason of its being so infected with disease as to be likely to cause sickness among the occupants, or by reason of its want of repair has become dangerous to life, said board may issue an order, and cause the same to be affixed conspicuously on the building, or part thereof, and to be personally served upon the owner, agent, or lessee, if the same can be found in this state, requiring all persons therein to vacate such building for the reasons to be stated therein as aforesaid.

Such building, or part thereof, shall, within ten days thereafter, be vacated; or within such shorter time, not less than twenty-four hours, as in said notice may be specified; but said board, if it shall become satisfied that the danger from said house, or part thereof, has ceased to exist, may revoke said order, and it shall thenceforward become inoperative.

Tenement-house, etc., not to be used until regulations are complied with.

SECT. 46. No house hereafter erected shall be used as a tenement-house or lodging-house, and no house heretofore erected, and not now used for such purpose, shall be converted into, used, or leased for, a tenement or lodging house, unless in addition to the requirements herein before contained, it conforms to the requirements contained in the following sections.

Distances requisite between walls of tenement-houses and other buildings.

SECT. 47. It shall not be lawful hereafter to erect for, or convert to the purposes of, a tenement or lodging house, a building on the front of any lot where there is another building on the rear of the same lot, unless there is a clear, open space, exclusively belonging to the front building and extending upwards from the ground, of at least ten feet between said buildings, if they are one story high above the level of the ground; if they are two stories high, the distance between them shall not be less than fifteen feet; if they are three stories high, the distance between them shall be twenty feet; and if they are more than three stories high, the distance between them shall be twenty-five feet. At the rear of every building hereafter erected for or converted to the purposes of a tenement or lodging house on the back part of any lot, there shall be a clear open space of ten feet between it and any other building. But when thorough ventilation of such open spaces can be otherwise secured,

said distances may be lessened or modified in special cases, by a permit from the inspector of buildings.

SECT. 48. In every such house hereafter erected or converted, every habitable room, except rooms in the attic, shall be in every part not less than eight feet in height from the floor to the ceiling; and every habitable room in the attic of any building shall be at least eight feet in height from the floor to the ceiling, throughout not less than one-half the area of such room. Every such room shall have at least one window connecting with the external air, or over the door a suitable ventilator, connecting it with a room or hall which has a connection with the external air. The total area of window in every room communicating with the external air shall be equal to at least one-tenth of the superficial area of every such room; and the top of one at least of such windows shall not be less than seven feet and six inches above the floor, and the upper half of each window shall be so made as to open for the purposes of ventilation. Every habitable room of a less area than one hundred superficial feet if it does not communicate directly with the external air, and is without an open fireplace, shall be provided with special means of ventilation by a separate air-shaft extending to the roof, or otherwise as the inspector of buildings may prescribe.

Height of rooms.

Windows.

Ventilation for rooms that do not communicate with open air.

SECT. 49. Every such house hereafter erected or converted, shall have adequate chimneys running through every floor, with an open fireplace or grate, or place for a stove, properly connected with one of said chimneys, for every family set of apartments. It shall have proper conveniences and receptacles for ashes and rubbish; it shall have water furnished at one or more places in such house, or in the yard thereof, so that the same may be adequate and reasonably convenient for the use of the occupants thereof. It shall have the floor of the cellar properly cemented, so as to be water-tight. The halls on each floor shall open directly to the external air with suitable windows, and shall have no room or other obstruction at the end, unless sufficient light or ventilation is otherwise provided for said halls, in a manner approved by the inspector of buildings.

Fireplace for every family.

Receptacles for ashes, etc.

Cellar-floor to be cemented.

[SECT. 50.¹ The inspector of buildings, with the approval of the board of health, shall have authority to make other regulations as to cellars and as to ventilation, consistent with the foregoing, where he shall be satisfied that such regulations will secure equally well the health of the occupants. All complaints of violations of sections forty, forty-one, forty-two, forty-three, forty-four, and forty-five, of this act shall be made only by authority of the board of health.]

Inspector, with approval of board of health, may make other regulations.

DANGEROUS STRUCTURES.

[SECT. 51.² If any building or parts of a building, staging, or other structure, in the city of Boston, shall, from any cause, be reported dangerous or unsafe, and to endanger life and limb, it shall be the duty of the inspector of buildings to inspect such structure, and if, in his opinion, the same be dangerous, he shall cause a description of such dangerous structure, with street and number, to be entered in the books of the department for the survey and inspection of buildings.

Dangerous structures to be inspected.

[SECT. 52. The inspector of buildings shall immediately serve a notice in writing upon the owner, agent, or other party having an interest in said structure, requiring the same to be made safe and secure, or removed, as may be necessary.

Owners to be notified.

If the person so served with notice shall certify his or their assent

¹ Repealed. St. 1872, c. 260, § 4, substituted.

² Sections fifty-one to fifty-eight, inclusive, repealed by St. 1873, c. 298, § 26.

to the securing or removing of the said unsafe or dangerous structure, he or they shall be allowed until twelve o'clock noon of the day following the service of such notice, in which to commence the securing or removal of the same, and he or they shall employ sufficient labor to remove or secure the said structure as expeditiously as can be done. But upon his or their refusal or neglect to comply with the requirements of said notice so served, then a careful survey of the premises named in said notice shall be made by the inspector of buildings, the city engineer, and a person appointed by the owner or other interested party. And if the owner or other interested party shall refuse to appoint such surveyor, the other two shall proceed to make the survey, and in case of disagreement they shall call in a third person.

Proceedings in case building is not secured or removed.

The report of such survey shall be reduced to writing, and entered in the books of the department for the survey and inspection of buildings, and a copy served upon the owner or other interested party.

Building to be taken down or made safe.

[SECT. 53. Whenever the report of any such survey, had as aforesaid, shall cite the structure as unsafe or dangerous to life and limb, the inspector of buildings shall, upon the continued refusal or neglect of the owner or other interested party, cause such unsafe or dangerous structure to be taken down or otherwise made safe, and the cost and charges shall become a lien upon the said estate, to be collected according to law, but without prejudice to the right which the owner thereof may have to recover the same from any lessee, or other person liable for the expense of repairs: *provided*, that nothing herein shall authorize the recovery by the lessor of the lessee of the cost of any charges which have been rendered necessary through the default or negligence of the lessor, or through want of repair or defects existing in said premises at the commencement of the lease.

Proviso.

Penalty for not taking down building.

[SECT. 54. Upon the citation of any structure as unsafe or dangerous by the inspector of buildings, if the owner or other interested party, being notified thereof in writing, shall refuse or neglect to cause the said structure to be taken down or otherwise made safe, said owner or other interested party shall be liable, for every day's continuance of said refusal or neglect, to the penalty of a sum not less than ten nor exceeding fifty dollars, said sums to be recoverable as debts are now by law recoverable.

Parties aggrieved may apply for a jury.

[SECT. 55. Any owner or other interested person aggrieved by any such order may, within three days after the service thereof upon him, apply for a jury, to the superior court, if sitting in the county, or to any justice thereof in vacation. The court or justice shall issue a warrant for a jury, to be impanelled by the sheriff within fourteen days from the date of the warrant, in the manner provided in chapter forty-three of the general statutes relating to highways.

Jury to return verdict to next term of court.

[SECT. 56. The jury may affirm, annul, or alter, such order; and the sheriff shall return the verdict to the next term of the court for acceptance, and being accepted, it shall take effect as an original order.

Costs.

[SECT. 57. If the order is affirmed, costs shall be taxed against the applicant. If it is annulled, the applicant shall recover damages and costs against the city. If it is altered in part, the court may render such judgment as to costs, as justice may require.

Penalty may be enforced if order is not annulled by jury.

[SECT. 58. Nothing contained in the three preceding sections shall be construed to bar the right of the city to recover the penalty enacted in section fifty-four for the continuance of the refusal or neglect of the owner or other interested party to cause the structure in question to be taken down, or otherwise made safe, unless the said order shall be annulled by the jury; but in default of such annul-

ment, the city shall have the right to recover said penalty from the day of the original notice, as enacted in said section.]

HOIST-WAYS.

[SECT. 59.¹ The lessee or occupant of any warehouse, store, or manufactory, or other building in which there are hoist-ways, or other openings besides the usual stair-ways, shall cause the same to be securely closed at the close of each day. And in case any such building is occupied, then the owner thereof shall cause any such openings to be kept securely closed.] Hoist-ways to be closed at night.

PLACES OF AMUSEMENT.

[SECT. 60.² From and after the passage of this act it shall not be lawful for the owners or lessees of any public hall or place of amusement in the city of Boston to obstruct, or to allow to be obstructed by others, any of the aisles or passage-ways in the auditorium of said halls or places of amusement, by placing therein any benches, chairs, stools, or other articles that may prevent free egress, during the hours that said places may be open to the public.] Passage-ways not to be obstructed in places of amusement.

And the said owners, lessees, or their agents, are hereby required to keep open all doors giving access to such places of amusement, when used by the public, unless such doors open outwards, and except that fly-doors, opening both ways, may be kept closed.

For any neglect or violation of the above provisions of this act, a penalty of one hundred dollars shall be imposed upon the owner, lessee, or other occupant, of said places of amusement.] Penalty.

COMBUSTIBLE MATERIALS.

SECT. 61. No building situated or hereafter erected within the building limits of the city of Boston, occupied in part or in whole as a dwelling, shall have any hay, straw, hemp, flax, shavings, burning-fluid, turpentine, camphene, or any inflammable oil, or any other combustible material, stored therein, or kept on sale, except in such quantities as shall be provided for by law or by a city ordinance. Dwelling-houses not to have combustible materials stored therein.

PENALTIES.

SECT. 62. If any person or persons, whether owner or owners, contractor or contractors, shall erect, construct, build, or alter, so as to make it substantially a new building, any dwelling-house or other building within the city of Boston, without first obtaining a permit from the office of the inspector of buildings, such person shall forfeit and pay the sum of not less than one hundred dollars nor more than five hundred dollars for each and every offence; and if any person or persons as aforesaid shall proceed to complete any such building without having the same inspected as required, or shall fail to have the walls thereof built of the thickness required by this act, or otherwise fail to comply with its provisions, he or they so offending shall forfeit and pay the sum of not less than one hundred dollars nor more than five hundred dollars for each and every offence, and the further sum of one hundred dollars for each and every calendar month that said house or building shall be suffered to remain without the necessary inspection and the procuring of the proper certificates. These sums shall be recoverable as debts are now by law recovered. Penalties.

If, upon inspection, it shall appear that the work upon any building is going on in violation of any of the provisions of this act, the

¹ Repealed. St. 1872, c 280, § 5, substituted.

² Repealed by St. 1876, c. 69, § 4.

inspector of buildings shall forthwith notify the owner or owners, contractor or contractors, of such violation, and if, after such notice, the said parties, or any or either of them, shall proceed in the erection or construction of such building, it shall be lawful, after due notice in writing, setting forth the said violation particularly, for the supreme judicial court, or any justice thereof, either in term time or vacation, to issue forthwith an injunction restraining such person or persons from further progress in said work until the facts of the case shall have been investigated and determined; and if it shall appear to the said court upon such investigation, that such building does not in all respects conform to the provisions of this act, said court, besides enforcing the penalty herein before designated, shall issue an injunction to restrain the continuance of the work and to remove so much of the said building as may be decreed by the court, within such time as the court may appoint.

Repeal.

SECT. 63. Chapter one hundred and thirty-nine of the acts of the year eighteen hundred and thirty-five, chapter one hundred and thirty-two of the acts of the year eighteen hundred and forty-seven, chapter two hundred and eighty of the acts of the year eighteen hundred and fifty, chapter two hundred and eighty-one of the acts of the year eighteen hundred and sixty-eight, chapter one hundred and twenty-three of the acts of the year eighteen hundred and sixty-nine, and chapter one hundred and sixteen of the acts of the year eighteen hundred and seventy, and all acts or parts of acts inconsistent herewith, are hereby repealed.

May 12, 1871.

[1872, 260, 371; 1873, 4, 298, 338; 1876, 69, 176; 1877, 84; 1882, 101, 252; 1883, 155, 173, 251; 1884, 223.]

1871. — CHAPTER 340.

AN ACT TO AMEND "AN ACT TO AUTHORIZE THE CITY OF BOSTON AND THE TOWN OF WEST ROXBURY TO IMPROVE STONY BROOK AND ITS TRIBUTARIES."

Be it enacted, etc. :

May exercise powers granted under 1868, 223; 1870, 220.

SECTION 1. The city of Boston and the town of West Roxbury, for the preservation of the public health, as well as for sewerage purposes, may exercise the powers granted by chapter two hundred and twenty-three of the acts of the year eighteen hundred and sixty-eight, and by chapter two hundred and twenty of the acts of the year eighteen hundred and seventy.

Repeal.

Section eight of chapter two hundred and twenty-three of the acts of the year eighteen hundred and sixty-eight is hereby repealed.

SECT. 2. This act shall take effect upon its passage.

May 25, 1871.

[1868, 223; 1870, 220; 1874, 196.]

1872. — CHAPTER 15.

AN ACT TO AMEND "AN ACT TO REVISE THE CHARTER OF THE CITY OF BOSTON."

Be it enacted, etc. :

Majority of members to constitute a quorum in common council.

Section thirty-four of chapter four hundred and forty-eight of the acts of the year eighteen hundred and fifty-four, is hereby amended by striking out the words, "and twenty-five members shall constitute a quorum for the transaction of business;" and inserting instead thereof

the words, "and a majority of all the members of the common council shall constitute a quorum for the transaction of business."

February 8, 1872.

[1854, 448.]

1872. — CHAPTER 16.

AN ACT TO REGULATE THE SPEED OF VESSELS PROPELLED BY STEAM
IN BOSTON AND CHARLESTOWN HARBORS.

Be it enacted, etc. :

SECTION 1. No vessel propelled by steam shall, either in Boston harbor or Charlestown harbor, pass within one hundred yards of any wharf, at greater speed than at the rate of five miles an hour.

Steam vessels
not to pass
wharves faster
than five miles
an hour.
Penalties.

SECT. 2. The master, pilot, and engineer, of any vessel violating the provisions of this act, shall severally be punished by fine not exceeding one hundred dollars.

SECT. 3. The owner of any vessel violating the provisions of this act shall pay to any person suffering damage thereby, the full amount of such damage, to be recovered in an action of tort.

Damages.

February 10, 1872.

1872. — CHAPTER 55.

AN ACT IN ADDITION "TO AN ACT CONCERNING THE DRAW IN CHARLES
RIVER BRIDGE."

Be it enacted, etc. :

SECTION 1. The draw required in Charles river bridge, under the provisions of chapter two hundred and seventy-two of the acts of the year eighteen hundred and sixty-nine, shall have a clear opening of thirty-six feet in width, instead of forty-four feet as provided in said act.

Draw in Charles
river bridge to
have clear open-
ing of thirty-
six feet.

SECT. 2. This act shall take effect upon its passage.

February 28, 1872.

[1874, 259.]

1872. — CHAPTER 85.

AN ACT IN ADDITION TO "AN ACT FOR SUPPLYING THE CITY OF
CHARLESTOWN WITH PURE WATER."

Be it enacted, etc. :

SECTION 1. For the purpose of defraying the cost and expenses incurred by the city of Charlestown in the construction and extension of water works in said city, the city council of said city is hereby authorized to issue from time to time, scrip, notes, or certificates of debt, to be denominated on the face thereof, "Water bonds of the city of Charlestown," to an amount not exceeding one hundred thousand dollars: *provided, however,* that the whole amount issued under this act and the acts to which this act is an addition, shall not exceed the cost of the construction and extension of said works. The said bonds shall bear interest at a rate not exceeding six per centum per annum, and shall be redeemable at a period of time not less than ten nor more than thirty years from and after the issue thereof. And said city council may sell the same or any part thereof, from time to time, at public or private sale, on such terms and conditions as said city council shall judge proper.

"Water bonds
of the city of
Charlestown"
not to exceed
\$100,000.

Proviso.

Income from water rates in excess of cost of several acts authorizing the construction and extension of water works in said city, after deducting cost of maintenance, and interest on the water bonds, shall be applied to the reduction of the water debt, and shall not be used for any other purpose whatever.

SECT. 2. The income derived from water rates under the several acts authorizing the construction and extension of water works in said city, after deducting cost of maintenance, and interest on the water bonds, shall be applied to the reduction of the water debt, and shall not be used for any other purpose whatever.

SECT. 3. This act shall take effect upon its passage.

March 9, 1872.

[1861, 105; 1863, 9; 1864, 176; 1865, 135; 1870, 216; 1871, 159.]

1872. — CHAPTER 177.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO OBTAIN AN ADDITIONAL SUPPLY OF PURE WATER.

Be it enacted, etc. :

Boston may take water from Sudbury river and Farm pond.

SECTION 1. The city of Boston is hereby authorized, by and through the agency of the Cochituate water board, to take, hold, and convey to, into, and through, said city, all the water of Sudbury river, so called, said water to be taken at any point or points within the town of Framingham, or higher up on said river, and the water of Farm pond, so called, in said town of Framingham, and the waters which may flow into and from said river and pond, and to take any water rights in or upon said river or pond, in or above the town of Framingham, or connected therewith.

May take lands for preserving the purity of water, etc.

Said city may also take and hold, by purchase or otherwise, in connection with the said sources of supply, any lands and real estate necessary for increasing or preserving the purity of the water, or for laying, building, and maintaining, aqueducts, water-courses, reservoirs, dams, buildings, machinery, and other structures and appliances, with their accessories, for conducting, elevating, purifying, storing, discharging, disposing of, and distributing, water; and may also take and hold any land, excepting any in the town of Framingham heretofore taken or purchased by any railroad company, on the margin of said sources of supply, not exceeding five rods in width from the high-water line of said river, storage, reservoirs, or pond, so far as may be necessary, in the opinion of said Cochituate water board, for the preservation and purity of the same, for the purpose of furnishing a supply of pure water for the city of Boston.

May build permanent aqueducts to connect with reservoirs.

SECT. 2. For the purposes of this act, the said city may make and build one or more permanent aqueducts from the aforesaid water sources to Chestnut Hill reservoir, so called, or to any other reservoir owned by said city, and secure and maintain the same by any works suitable therefor; may connect the said water sources with Lake Cochituate; may erect and maintain dams, or may increase the height of, and strengthen and maintain, existing dams to raise the water above the same, or to form storage reservoirs; may make and maintain reservoirs within and without said city; may erect and maintain buildings and machinery for elevating the water, and lay down pipes for conducting the same; may build and maintain filters, or other means of purifying the water. And the said city may, for the purposes aforesaid, carry and conduct any aqueduct, or other work, by it to be made and constructed, under or over any water-course. or any street, turnpike-road, railroad, highway or other way, in such manner as not to unnecessarily obstruct or impede travel thereon; and may enter upon and dig up any such road, street, or way, for the purpose of laying down pipes beneath the surface thereof, and for maintaining and repairing the same; and, in general, may do any other acts and things necessary or convenient and proper for the pur-

May connect water sources with Lake Cochituate.

May build filters, etc.

May enter upon and dig up streets for laying down pipes.

poses of this act. Said city of Boston in entering upon and digging up any such road, street or way of public travel, shall be subject to such reasonable regulations as shall be made by the selectmen of the towns wherein such work shall be performed, for the protection of their rights of drainage and sewerage therein.

SECT. 3. The city of Boston is hereby further authorized, by and through the agency of said Cochituate water board, if said board shall deem expedient, to store and distribute water for maintaining and equalizing the flow of water in the river selected by said city as its source of supply, or in the rivers into which said river may discharge, and for this purpose said city may take and hold such land and real estate as may be necessary for building and maintaining dams, reservoirs or other structures and appliances, for storing and discharging water. And the said city may, through the same agency make and build such dams, reservoirs and other structures and appliances, at any point or points upon the said Sudbury river, and upon any and all streams flowing into the same.

May take lands for building dams and reservoirs.

SECT. 4. Nothing contained in this act shall be so construed as to authorize the city of Boston to reduce the water in Sudbury river below a sufficient height to maintain at all times a running stream therein, which shall flow at least one and one-half million gallons a day for each and every day in the year, or to draw from Farm pond or Sudbury river into Lake Cochituate when the water runs over the dam at Lake Cochituate, or to prevent the inhabitants of the towns of Framingham, Ashland, Southborough, Hudson, and Westborough, from taking from the Sudbury or Assabet rivers or Farm pond so much of the water hereby granted as shall be necessary for extinguishing fires, and for all ordinary domestic and household purposes, and for the generation of steam, or from cutting and carrying away ice from said pond, or as to prevent the Boston and Albany Railroad Company, or the Mansfield and Framingham Railroad Company, or the Boston, Clinton and Fitchburg Railroad Company, from taking water from Farm pond, for use in locomotive or other engines, or for other railroad purposes, under such regulations of the city council of the city of Boston as may be essential for the preservation of the purity of the same.

Restrictions as to amount of water to be taken from Sudbury and Assabet rivers and Farm pond.

1875, 168.

SECT. 5. The city of Boston shall be liable to pay all damages that shall be sustained by any persons in their property, by the taking of or injury to any land, real estate, water, or water-rights, or by the flowage of the lands of any persons, or by the interference with or injury to any use or enjoyment of the water of said river to which any person, at the time of such taking, is legally entitled, or by any other doings under this act; and in regard to such taking, injury, interference and flowage, and the ascertainment and payment of all such damages, the said city of Boston, and all persons claiming damages, shall have all the rights, immunities, and remedies, and be subject to all the duties, liabilities, and regulations, which are provided in the one hundred and sixty-seventh chapter of the acts of the year eighteen hundred and forty-six, and the three hundred and sixteenth chapter of the acts of the year eighteen hundred and fifty.

Liability for damages.
130 Mass. 339,
452.
133 Mass. 367.

120 Mass. 352.

SECT. 6. Whenever the city of Boston shall dig up any street or way, as aforesaid, it shall restore the same in as good order and condition as the same shall be in when such digging commenced; and the city of Boston shall, at all times, indemnify and save harmless the several towns within which such street or way may be, against all damages which may be recovered against them respectively, and shall reimburse to them all expenses which they shall incur by reason of any defect or want of repair in any street or way caused by the construction of any of said works, or laying of said pipes, or by the maintaining or

Streets to be restored to good order and condition.
Boston liable for defects, etc.

Proviso.

repairing the same: *provided*, that said city shall have due and reasonable notice of all claims for such damages or injury, and opportunity to make a legal defence thereto.

Penalties for maliciously diverting water or rendering it impure.

SECT. 7. If any person or persons shall wantonly or maliciously divert the water, or any part hereof, of any of the rivers, ponds, streams, or water sources, which shall be taken by the city, pursuant to the provisions of this act, or shall corrupt the same, or render it impure, or destroy or injure any dam, aqueduct, pipe, conduit, hydrant, machinery, or other property, held, owned, or used, by the said city, by the authority and for the purposes of this act, every such person or persons shall forfeit and pay to the said city three times the amount of the damages that shall be assessed therefor, to be recovered by any proper action. And every such person or persons may, moreover, on indictment and conviction of either of the wanton and malicious acts aforesaid, be punished by fine not exceeding one thousand dollars, and imprisonment not exceeding one year, or by confinement to hard labor in the state prison for a term not exceeding ten years.

City may supply certain towns with water.

SECT. 8. The city of Boston is authorized, if said city shall deem it expedient so to do, to supply the towns of Framingham, Newton, West Roxbury, Brighton, and Brookline, or either of them, with water, in such quantities, under such conditions, and upon such terms as may be agreed upon between said city and said towns, or either of them; and such towns shall respectively have power to distribute the water so supplied among the inhabitants of said towns.

Water for state normal school buildings in Framingham.

SECT. 9. The commonwealth may take and convey water from said Sudbury river, or any of the reservoirs to be constructed by said city, to and for the use of the state normal school buildings, in said town of Framingham:

SECT. 10. This act shall take effect upon its passage.

April 8, 1872.

[1875, 168.]

1872.—CHAPTER 197.

AN ACT TO ANNEX MOUNT HOPE CEMETERY TO THE CITY OF BOSTON.

Be it enacted, etc.:

Mount Hope cemetery annexed to Boston.

SECTION 1. All that territory lying in the town of West Roxbury, being the property of the city of Boston, and known as Mount Hope cemetery, with the inhabitants and estates therein, is hereby annexed to and made a part of the city of Boston, and shall hereafter constitute a part of the county of Suffolk, subject to the same municipal regulations, obligations, and liabilities, and entitled to the same immunities in all respects as the said city. The said territory is bounded as follows: beginning at the north-west corner of Back and Walk Hill streets, on the boundary line between the city of Boston and the town of West Roxbury as it existed before the passage of this act; thence running north-westerly by the south-westerly line of Walk Hill street to a private way leading along the north-westerly boundary of Mount Hope cemetery from Walk Hill street to Canterbury street; thence south-westerly by the south-easterly line of said private way, to Canterbury street; thence south-easterly on the division line between Mount Hope cemetery and land of Samuel Whittemore, to an angle in said line; thence again south-westerly by the north-westerly boundary line of Mount Hope cemetery to a private way leading from Canterbury street to Berry street; thence south-easterly by the north-easterly line of said private way to the

Boundaries of territory annexed.
R.O. c. 42.

division line between Mount Hope cemetery and Mount Calvary cemetery; thence north-easterly by the said division line between Mount Hope cemetery and Mount Calvary cemetery, to an angle in said line; thence south-easterly by the same to Back street; and thence north-easterly by the north-westerly line of Back street, being the boundary line between said city of Boston and said town of West Roxbury, as it existed before the passage of this act, to the point of beginning.

SECT. 2. This act shall take effect upon its passage.

April 12, 1872.

[1849, 150.]

1872. — CHAPTER 242.

AN ACT IN RELATION TO THE ASSESSMENT OF BETTERMENTS IN BOSTON.

Be it enacted, etc. :

SECTION 1. The board of street commissioners of the city of Boston may assess betterments on estates abutting on streets laid out, extended, or widened, in said city, under the provisions of chapter four hundred and forty-eight of the acts of the year eighteen hundred and sixty-nine, chapter seventy-nine of the acts of the year eighteen hundred and seventy, and chapter ninety-six of the acts of the year eighteen hundred and seventy-one, within one year from the time when the streets so laid out, widened, or extended, are graded and opened to public travel.

Assessment of
betterments on
streets laid out.

SECT. 2. This act shall take effect upon its passage.

April 23, 1872.

[1869, 448; 1870, 79; 1871, 96.]

1872. — CHAPTER 260.

AN ACT IN ADDITION TO "AN ACT TO PROVIDE FOR THE REGULATION AND INSPECTION OF BUILDINGS, THE MORE EFFECTUAL PREVENTION OF FIRE, AND THE BETTER PRESERVATION OF LIFE AND PROPERTY IN BOSTON."

Be it enacted, etc. :

SECTION 1. Section sixteen of chapter two hundred and eighty of the acts of the year eighteen hundred and seventy-one, is hereby repealed, and the following enacted in place thereof: —

No wooden or frame building shall hereafter be built within the said building limits of the city of Boston, except as hereinafter provided, and no wooden addition shall be made to any building within said limits, which shall exceed fifteen feet in height from the ground to the highest part thereof, or which shall exceed five hundred superficial feet in area; and not more than one wooden addition shall be allowed to be built to any building within the said building limits. No wooden building shall be moved from any lot outside of the said limits to any lot within the said limits.

Wooden buildings not to be erected within building limits.
123 Mass. 372.

It shall be lawful to erect wooden or frame sheds, for storage or other purposes, upon wharves within the building limits of the city of Boston, upon the following conditions, namely: — Every such shed shall not exceed twenty-seven feet in height from the level of the wharf to the peak or highest point thereof. It shall be located and constructed in such a manner as the inspector of buildings may direct, and the roof and other external parts thereto shall be covered with non-combustible material, to be approved by said inspector.

Wooden buildings not to be moved within limits.
Sheds may be erected upon wharves.

City council
may authorize
erection of
elevators.

The city council of Boston may authorize the erection, within the building limits, of elevators for grain or coal to a height greater than twenty-seven feet, and of sheds for the storage of lumber and for mechanical purposes. The inspector of buildings may grant the privilege of erecting temporary sheds, at building sites, for the use of builders.

The city council of the city of Boston shall have control and direction of the building of wooden buildings outside of said limits, but within said city, and may authorize such buildings upon such terms and conditions as they may deem expedient.

Amendment of
1871, 280, § 21.

SECT. 2. Section twenty-one of said chapter two hundred and eighty is amended by inserting the words "with walls" after the words "dwelling-houses," wherever they occur.

[SECT. 3.¹ Section twenty-two of said chapter two hundred and eighty is hereby repealed, and the following enacted in place thereof:—

Dimensions of
walls for build-
ings other than
dwelling-
houses.

Buildings other than dwelling-houses, shall have walls of the following thickness:—

For buildings in which the walls do not exceed thirty-five feet in height, the foundation walls, laid in block stone in horizontal courses, shall not be less than eighteen inches thick; the external and party-walls not to be less than twelve inches thick to the top of the upper floor, and not less than eight inches thick for the remaining height.

For buildings in which the walls exceed thirty-five and do not exceed fifty-five feet in height, the foundation walls, laid in block stone, shall not be less than two feet thick; the external and party-walls not less than sixteen inches thick to the top of the highest floor, and not less than twelve inches thick for the remaining height.

For buildings in which the walls exceed fifty-five feet in height, the foundation walls, laid with block stone in horizontal courses, shall be not less than thirty inches thick; external and party-walls, not bearing floor timbers, not less than sixteen inches thick to the top of the highest floor, and not less than twelve inches thick for the remaining height; external or party-walls, bearing floor timbers, not less than twenty inches thick to the top of the second floor, above the street, and not less than sixteen inches thick from the top of the second floor above the street to the top of the highest floor, and not less than twelve inches thick for the remaining height.

The bottom course for all foundation walls resting upon the ground shall be at least twelve inches wider than the thickness above given for the foundation walls.

Reduction of
breadth may be
permitted by
inspector.

In case the great solidity of the foundation will warrant it, the inspector may, at his discretion, permit a reduction of the maximum breadths of foundation walls. And in case of disagreement between the architect or owner, and the inspector, the matter shall be decided by reference, as provided in section nineteen.]

Repeal of 1871,
280, § 50.

SECT. 4. Section fifty of said chapter two hundred and eighty is hereby repealed, and the following enacted in place thereof:—

Regulations as
to cellars and
ventilation of
tenement-houses
may be made by
board of health.

The board of health shall have authority to make other regulations as to cellars and the ventilation of tenement-houses. The municipal court of the city of Boston, the municipal court of the Dorchester district, and the municipal court of the southern district, shall have jurisdiction, concurrent with the superior court, of all offences against sections forty, forty-one, forty-two, forty-three, forty-four, and forty-five, of chapter two hundred and eighty of the acts of the year eighteen hundred and seventy-one, and every person violating any of these sections shall be guilty of a misdemeanor punishable by a fine not

¹ Substitute, St. 1872, c. 371, § 1.

exceeding three hundred dollars, or by imprisonment not exceeding sixty days.

All complaints of violations of sections forty, forty-one, forty-two, forty-three, forty-four, and forty-five, of this act shall be made only by authority of the board of health.

SECT. 5. Section fifty-nine of said chapter two hundred and eighty is hereby repealed, and the following enacted in place thereof: —

Repeal of 1871,
280, § 59.

In any store or building in Boston, in which there shall exist or be placed any hoist-way, elevator, or well-hole, the openings thereof through and upon each floor of the said building shall be provided with, and protected by, a good and substantial railing, and such good and sufficient trap-doors with which to close the same, as may be directed and approved by the inspector of buildings; and such trap-doors shall be kept closed at all times except when in actual use by the occupant or occupants of the building having the use and control of the same. For any neglect or violation of the provisions of this section a penalty not exceeding one hundred dollars for each and every offence may be imposed upon the owner, lessee, or occupant, of said building.

Hoist-ways to be
surrounded by
railing and kept
closed when not
in use.

April 25, 1872.

[1871, 280; 1872, 371; 1873, 298; 1876, 69, 176; 1882, 101, 252; 1883, 155.]

1872. — CHAPTER 267.

AN ACT TO CHANGE THE BOUNDARY BETWEEN BROOKLINE AND BOSTON,
AND FOR SANITARY PURPOSES.

Be it enacted, etc. :

SECTION 1. The boundary line between the town of Brookline and the city of Boston is hereby changed and established as follows: *First*, beginning at the stone post in the present boundary line on the northerly side of Washington street in Brookline, and running generally north-easterly in the centre of Muddy river about four hundred and fifty-five feet; thence north thirty-eight degrees east, parallel to the easterly side of Brookline avenue and eighty-five feet distant therefrom, eight hundred feet to a corner; thence turning a right angle to the west and running one hundred and forty-five feet to the north-westerly side of Brookline avenue; thence north-easterly along the side of said avenue five hundred and fifty feet; thence north-westerly about eighty feet to the centre of Muddy river: *Second*, beginning in the centre of Muddy river at a point on the southerly side of Longwood avenue bridge, and running south fifty-five minutes west, six hundred and ten feet to the centre of said river: *Third*, beginning at the corner of the present boundary line in the centre of Charles river, and running easterly on the centre line of said river forty feet; thence southerly along the easterly side of Saint Mary's street to Ivy street; thence south-easterly along the easterly line of Saint Mary's street extended, parallel to the present boundary line and forty feet distant therefrom, to the centre of Muddy river; thence south-westerly along said centre about forty-one feet to the present boundary corner. This third change is made by running a line parallel to and forty feet from and easterly of the present boundary line between Charles river and Muddy river. The bearings herein given are the magnetic bearings. The new boundary line is laid down on a plan thereof made by George Tyler, civil engineer, and signed by the selectmen of Brookline, which is deposited in the office of the secretary of the commonwealth.

Boundary line
changed
between Brook-
line and Boston.

SECT. 2. The town of Brookline and the city of Boston may erect

Brookline and
Boston may

erect and maintain dam with tide-gate across Muddy river.

and maintain a dam, with a tide-gate therein, across Muddy river at its intersection with Brookline avenue in Boston, near the street now or formerly called Appleton place, for the purpose of preventing the tide from flowing up said river. If the city of Boston shall refuse or neglect, after thirty days notice, to unite with the town of Brookline in erecting said dam and tide-gate, the town of Brookline may erect and maintain the same at its own expense.

Waters may be diverted so as to flow more directly to Charles river.
1873, 280.

SECT. 3. The town of Brookline and the city of Boston may divert the waters of Muddy river, above said dam, so as to make them flow in a more direct line to Charles river, through the lands of any person or corporation, as they shall adjudge to be necessary for the public convenience or the public health. If the city of Boston shall refuse or neglect, after thirty days notice, to unite with the town of Brookline in diverting said waters, the town of Brookline may divert said waters where the same are exclusively within the limits of said town.

If waters are diverted, lands may be filled to new line.

SECT. 4. In case said waters of Muddy river shall be diverted as aforesaid, the owners of lands bordering upon said river may fill up said lands and the ancient channel of Muddy river, to the borders of the new line of said river.

Proceedings to be same as in case of laying out town ways.

SECT. 5. For any of the purposes of this act the land or real estate of any person or corporation may be taken, and the proceedings in erecting said dam and tide-gate, and in diverting Muddy river, shall be the same in all respects as in the laying out of town ways; and all persons or corporations suffering damage in their property by reason of the erection of said tide-gate and dam, or by the diversion of Muddy river, shall have the same rights and remedies for the ascertainment and recovery of the amount of such damages as in the case of laying out of town ways.

Payment of taxes.

SECT. 6. The territory and the inhabitants thereon hereby set off from the city of Boston to the town of Brookline shall be holden to pay all such taxes as are already assessed or ordered to be assessed by said city of Boston for the present year, in the same manner as if this act had not been passed; and all paupers who have gained a settlement in said city of Boston by a settlement gained or derived within said territory, shall be relieved or supported by said town of Brookline, in the same manner as if they had a legal settlement in said town of Brookline.

Support of paupers.

Election of state and national officers.

SECT. 7. The inhabitants of the territory hereby set off to the town of Brookline shall continue to be a part of Boston for the purpose of electing state officers and members of the executive council, senators and representatives to the general court, representatives to congress, and electors of president and vice-president of the United States, until the next decennial census or until another apportionment shall be made; and it shall be the duty of the selectmen of Brookline to make a true list of the persons residing on the territory hereby set off, qualified to vote at such elections, and post up the same in said territory, and correct the same as required by law, and deliver the same to the mayor and aldermen of the city of Boston, seven days at least before any such election, and the same shall be taken and used by the mayor and aldermen of Boston for such election, in the same manner as if it had been prepared by themselves.

SECT. 8. This act shall take effect upon its passage.

April 27, 1873.

1872. — CHAPTER 303.

AN ACT IN RELATION TO SIDEWALKS IN CITIES.

Be it enacted, etc. :

SECTION 1. The board of mayor and aldermen in any city may grade and construct sidewalks, and complete any partially constructed sidewalk in any street of such city, as the public convenience may require, with or without edgestones, as said board shall deem expedient, and may cover the same with brick, flat stones, concrete, gravel, or other appropriate material, and may assess upon the abutters on such sidewalks, in just proportions, not exceeding one-half of the expense of the same; but all assessments so made shall constitute a lien upon the abutting land, and be collected in the same manner as taxes on real estate are now collected, and such sidewalks, when constructed with edgestones and covered with brick, flat stones, or concrete, shall afterwards be maintained at the expense of such city. When any such sidewalk shall be permanently constructed with edgestones, and covered with brick, flat stones, or concrete, as aforesaid, there shall be deducted from the assessment therefor any sum which shall have been previously assessed upon the abutting premises, and paid to the city for the expense of the construction of the same in any other manner than with edgestones and with brick, flat stones, or concrete, as aforesaid; and such deduction shall be made *pro rata*, and in just proportions from the assessments upon different abutters, who, at the time of such assessments are owners of the estate which at the time of such former assessments was the estate of the abutters who had previously paid such former assessments.

Sidewalks may be constructed in cities and portion of expense assessed upon abutters.

SECT. 2. In estimating the damage sustained by any party by the construction of sidewalks as aforesaid, there shall be allowed, by way of set-off, the benefit, if any, to the property of the party by reason thereof.

Damages.

SECT. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

Repeal.

SECT. 4. This act shall not take effect in any city unless accepted by the city council thereof.¹

Subject to acceptance by city council.

May 3, 1872.

1872. — CHAPTER 322.

AN ACT TO AMEND "AN ACT TO AMEND THE CHARTER OF THE CITY OF BOSTON."

Be it enacted, etc. :

Section three of chapter three hundred and thirty-seven of the acts of the year eighteen hundred and seventy is hereby amended by striking out the word "twenty-five" and inserting in place thereof the word "ten" wherever it occurs in said section, and by striking out all after the word "therein" in said section. And whenever the city council shall request the board of street commissioners to furnish the estimated cost of laying out, altering, or discontinuing, any street, lane, or alley, in said city, said board shall furnish such estimates within sixty days thereafter; and whenever the city council shall adjudge that the public safety and convenience require that any street, lane or alley in the said city shall be laid out, altered, or discontinued, and shall by a two-thirds vote of the members of each

Amendment of 1870, 337.

Street commissioners to furnish to city council estimates of cost of laying out streets.

To lay out, etc., streets, when directed by two-thirds vote of each branch of city council.

¹ Accepted by the city council, May 24, 1872.

branch thereof, direct the said board of street commissioners to lay out, alter, or discontinue, any such street, lane, or alley, said board shall forthwith proceed so to lay out, alter, or discontinue, such street, lane, or alley, under the provisions of this act.

May 4, 1872.

[1870, 887.]

1872. — CHAPTER 342.

AN ACT TO INCORPORATE THE UNION FREIGHT RAILROAD COMPANY.

Be it enacted, etc.:

Union Freight
Railroad Com-
pany incor-
porated.

SECTION 1. George B. Upton, Percival L. Everett, Henry S. Russell, their associates and successors, are hereby made a corporation by the name of the Union Freight Railroad Company, for the purpose of locating, constructing, maintaining, and operating, a railroad, for public use in the conveyance of freight only, with convenient single or double tracks, between the terminal points of the several steam railroads entering the city of Boston, and extending in and through such portions of the following streets as may be necessary for that purpose, namely: Lowell, Brighton, Causeway, Minot, Nashua, Commercial, Prince, Hanover, Fleet, India, Broad, Atlantic avenue, Federal, Kneeland, Cove, Lincoln, and Eliot, streets, and upon and over such other streets as the board of aldermen of said city may from time to time determine, on the petition of the said corporation; with the right also to construct, use, and maintain, side tracks from its main tracks to any wharf or wharves or warehouses, when requested, in writing, so to do by a majority in interest of the owners or occupants of such wharves or warehouses: *provided, however*, that no side track shall be laid upon a public street to any wharf or warehouse, without the approval of the board of aldermen; and *provided, also*, that the rails for said tracks shall be of such pattern, suitable for railway freight cars in common use, as the board of aldermen may prescribe. Said corporation shall have all the powers and privileges, and be subject to all the duties, restrictions, and liabilities, set forth in all general laws which now are, or hereafter may be, in force relating to street railway corporations, and to other railroad corporations, so far as the same may be applicable.

Proviso.

Proviso.

Other railroads
may connect
tracks for trans-
portation of
freight.

Repealed by
1876, 229

Cars may be
drawn by steam
power during
the night.

Rates of freight
may be fixed by
company.

Amended by
1876, 229.

Company may
enter upon and
use tracks of

SECT. 2. [Every railroad corporation by whose road said Union Freight Railroad passes, may, in the manner prescribed by said board of aldermen, connect its tracks with the same for the transportation of freight; and every such railroad corporation is empowered to make such connections; and in making such connections said railroad corporations shall have all the powers and be subject to all the liabilities set forth in the sixty-third chapter of the general statutes, and in the laws supplemental thereto; and it shall be the duty of said Union Freight Railroad Company to receive and deliver freight cars at each of said connections, and to haul the same over its road at its established rates. The cars on said road may be drawn during the night by steam power, subject to the regulations of said board of aldermen.]

SECT. 3. Said corporation shall have the power to fix and collect such tolls for the transportation of freight as they may from time to time deem expedient: *provided*, that said rates shall only be sufficient to pay the reasonable and necessary expenses of said corporation, and to pay a dividend of five per centum semi-annually upon the actual cost of the construction and equipment of its road.

SECT. 4. Said corporation may, within its authorized limits, and for the purposes of this act, enter upon and use any part of the

tracks of any other street railroad, and may suitably strengthen and improve such tracks; and if the corporations cannot agree upon the manner and conditions of such entry and use, or the compensation to be paid therefor, the same shall be determined in accordance with the provisions of the thirty-eighth section of chapter three hundred and eighty-one of the acts of the year eighteen hundred and seventy-one.

other street
railroads.

SECT. 5. The capital stock of said corporation shall not exceed the sum of five hundred thousand dollars.

Capital stock.

SECT. 6. Said corporation shall, within four months from the passage of this act, take the tracks, or any part thereof, of the Marginal Freight Railway Company, subject to the laws relating to the taking of land by railroad companies and the compensation to be made therefor.

To take tracks of
Marginal
Freight Railroad
Company.
105 U.S. 13.

SECT. 7. Chapter one hundred and seventy of the acts of the year eighteen hundred and sixty-seven, entitled an act to incorporate the Marginal Freight Railway Company, and so much of chapter four hundred and sixty-one of the acts of the year eighteen hundred and sixty-nine, as relates to said Marginal Freight Railroad Company, are hereby repealed.

Repeal.

SECT. 8. The corporate powers conferred by this act shall cease, unless within one year from the date of its passage the Union Freight Railroad Company shall have constructed a track or tracks, in suitable condition for use, in accordance with the terms of this act, connecting one or more of the steam railroads on the northerly side of the city of Boston with one or more of the steam railroads on the southerly side of said city: *provided*, however, that the board of railroad commissioners may at their discretion extend the time herein allowed for building the road, for a further period not exceeding one year, on sufficient cause shown.

Tracks to be
constructed,
etc., within one
year.

SECT. 9. The provisions of this act, and the franchise, rights, power, privileges, duties, and liabilities, of the corporation established under this act, may be altered, amended, or repealed, and the legislature may annul or dissolve said corporation.

Proviso.

Franchise of
corporation
may be annulled
by legislature.

SECT. 10. This act shall take effect upon its passage.

May 6, 1872.

[1873, 235; 1876, 229.]

1872. — CHAPTER 371.

AN ACT IN ADDITION TO "AN ACT TO PROVIDE FOR THE REGULATION AND INSPECTION OF BUILDINGS, THE MORE EFFECTUAL PREVENTION OF FIRE, AND THE BETTER PRESERVATION OF LIFE AND PROPERTY IN BOSTON."

Be it enacted, etc.:

SECTION 1. Section three of chapter two hundred and sixty of the acts of the year eighteen hundred and seventy-two is amended so that the same shall read as follows:—

Amendment to
1872, 260, § 3.
1873, 298, § 1.

Buildings other than dwelling-houses shall have walls of the following thickness:—

Walls of build-
ings, other than
dwelling-
houses.

For buildings in which the walls do not exceed thirty-five feet in height, the foundation walls shall be laid of block stone in horizontal courses not less than twenty-four inches thick, the external walls shall not be less than sixteen inches thick to the top of the upper floor, and not less than twelve inches thick for the remaining height.

For buildings in which the walls exceed thirty-five feet in height, the foundation walls shall be laid of block stone in horizontal courses not less than twenty-eight inches thick, the external walls not less

than twenty inches thick to the top of the third floor, and not less than sixteen inches thick for the remaining height.

1876, 176.

All party-walls shall be not less than twenty inches thick to the top of the second floor above the street, and not less than sixteen inches thick to the underside of the roof boards, and not less than twelve inches thick for the remaining height.

In all buildings over twenty-five feet in width, not having either brick partition walls, or girders supported by columns running from front to rear, the external walls shall be increased four inches in thickness, for every additional twenty-five feet in the width of said building.

The amount of materials above specified for external walls may be used either in piers or buttresses, provided the external walls between the said piers or buttresses shall in no case be less than sixteen inches thick.

The bottom course for all foundation walls resting upon the ground shall be at least twelve inches wider than the thickness above given for the foundation walls.

Amendment to
1871, 280, § 21.
Walls of dwell-
ing-houses.

1883, 155.

SECT. 2. Section twenty-one of chapter two hundred and eighty of the acts of the year eighteen hundred and seventy-one is amended so that the same shall read as follows: For dwelling-houses with walls not exceeding thirty-five feet in height, foundation walls, laid with block stone in horizontal courses, or in brick laid in cement, shall not be less than sixteen inches thick, and external and party-walls of brick shall be not less than twelve inches thick for the entire height.

For dwelling-houses with walls exceeding thirty-five and not exceeding fifty-five feet in height, foundation walls laid with block stone in horizontal courses shall be not less than eighteen inches thick; if of brick, the foundation shall be sixteen inches thick, and laid in cement. External brick walls shall be not less than twelve inches thick; party-walls of brick shall be not less than twelve inches thick for the entire height.

For dwelling-houses with walls exceeding fifty-five feet in height, foundation walls, laid with block stone in horizontal courses, or brick laid in cement, shall be not less than twenty inches thick for the entire height.

The thickness of foundation walls laid with irregular rubble work shall be one-fourth greater than the thickness given for block-stone walls.

Height of exter-
nal or party
wall to be meas-
ured from level
of sidewalk to
its highest point.
External walls
of stables and
workshops.

SECT. 3. The height of every external or party wall, as referred to in this act, or in the act of which this act is an amendment, or in any act in amendment thereof, shall be measured from the level of the sidewalk to its highest point.

Vaulted party-
walls.

SECT. 4. The external walls of buildings intended to be used for stables or for workshops of a light character may be built of a less thickness than herein before specified: *provided*, that any such building shall not exceed thirty feet in height to its highest point, and forty feet in length or width, and that the said walls shall in no case be less than twelve inches thick. Vaulted party-walls may be used instead of solid walls. They shall be built at least twenty inches thick from the foundation walls to the underside of the roof building. Said walls shall be constructed of two outer walls of equal thickness, with an air-space between them of four inches, and tied together perpendicularly with continuous withes of hard-burned brick of good quality, which shall be not more than three feet apart. The air-space shall be smoothly plastered.

In every brick
wall every ninth
course shall be a

SECT. 5. In every brick wall, every ninth course of brick shall be a heading course, except in walls built with some bond in which as

much as every ninth course is a heading course, and except where walls are faced with face brick, in which case every ninth course shall be bonded into the backing by cutting the course of the face brick, and putting diagonal headers behind the same, or by splitting face brick in half, and backing the same by a continuous row of headers. In all walls which are faced with thin ashlar, anchored to the backing, or in which the ashlar has not either alternate headers and stretchers in each course, or alternating heading and stretching courses, the backing of brick shall not be less than twelve inches thick, and shall not be built to a greater height than prescribed for twelve-inch walls. All heading courses shall be good, hard, perfect brick. The backing in all walls, of whatever material it may be composed, shall be of such thickness as to make all walls, the facing of which is less than four inches thick, independent of the facing, conform, as to thickness, with the requirements of sections one and two of this act.

heading course,
except, etc.
1873, 298, § 2.

Walls faced
with thin ashlar.

Heading
courses.
Backing of
walls.

SECT. 6. Every building hereafter erected, more than thirty feet in width, except churches, theatres, railroad-station buildings, and other public buildings, shall have one or more brick or stone partition walls running from front to rear, and carried up to a height not less than the top of the second-story floor-joists; said wall or walls may be four inches less in thickness than is called for by the provisions relating to the thickness of walls: these walls shall be so located that the space between any two of the floor-bearing walls of the building shall not be over twenty-five feet. Iron or wooden girders, supported upon iron or wooden columns, may be substituted in place of partition-walls, and shall be made of sufficient strength to bear safely the weight which they are intended to support, in addition to the weight of material employed in their construction, and shall have a footing course and foundation wall not less than eighteen inches in thickness, or piers of a size and strength equivalent thereto.

Partition walls
of brick or stone
in every build-
ing more than
thirty feet wide,
except churches,
etc.
1873, 298, § 3.

SECT. 7. It shall not be lawful to erect, construct, or build, any rear, front, party, division, or partition wall, upon wooden girders, rafters, or lintels, or to support any such wall by any wooden support whatever; but all such supports shall be of iron, brick, or stone, and of sufficient size and strength to support the superstructure. All lintels used to support walls or other weights over openings shall be of sufficient strength and bearing to carry the superimposed weight, and shall, when supported at the end by brick walls or piers, rest upon an iron plate at least two inches thick, the full size of the bearing.

All walls to be
erected upon
supports of iron,
brick or stone.
1873, 298, § 4.

No floor-beams shall be supported wholly upon any wood partition, but every beam (except headers and tail-beams) shall rest, at one end, not less than four inches in the wall, or upon a girder, as authorized by this act. And every trimmer or header, more than four feet long, used in any building except a dwelling, shall be hung in stirrup-irons, of suitable thickness for the size of the timbers. No timber shall be used in any wall of any building, where stone, brick, or iron is commonly used, except bond timbers and lintels, as herein before provided for, or as may be approved of by the inspector of buildings; and no bond timber in any wall shall, in width and thickness, exceed that of a course of brick. No bond timber shall be more than three feet in length, and such bond timbers shall be laid not less than eighteen inches apart, parallel to each other, and there shall be eight inches of brick or mason work between the ends of the same. The butts or ends of all floor-beams and rafters entering a brick wall shall be cut on a splay of three inches in their width.

Floor-beams not
to be wholly
supported upon
wooden parti-
tions.
Trimmers.

Bond timbers.

All main partitions, supporting in any manner the floor-beams of rafters, shall be placed directly over each other, and shall rest on a wall, girder, or hard-pine capping, and shall head and foot against each other as far as practicable.

Main partitions,
supporting the
floor, to be
placed over each
other.

Piers to be of good hard brick, and laid in clear cement.

SECT. 8. All piers shall be built of good, hard, well-burnt, brick, and laid in clear cement, and all bricks used in piers shall be of the hardest quality, and be well wet when laid; [and the walls and piers under all compound, cast-iron, or wooden girders, iron or other columns, shall have a bond iron at least two inches in thickness, and if in a wall, at least two feet in length, running through the wall, and if in a pier, the full size of the thickness thereof, every thirty inches in height from the bottom, whether said pier is in the wall or not, and shall have a cap of iron at least two inches in thickness, satisfactory to the inspector of buildings, by the whole size of the pier, if in a pier, and, if in a wall, it shall be at least two feet in length, by the thickness of the wall, and of the thicknesses above specified. All brick walls in buildings, other than dwelling-houses, shall be corbelled to receive floor-timbers, and such timbers shall be supported thereby. In case vaulted walls are used, the corbelling to receive floor-timbers may be dispensed with. In any case where any iron or other column rests on any wall or pier built entirely of stone or brick, the said column shall be set on an iron plate at least two inches thick, of the size of said pier; when any outer wall is supported in whole or in part by columns or pillars, the depth of base and head of such columns or pillars shall be equal to the required thickness of the wall thereby supported.]

Brick walls in buildings other than dwelling-houses shall be corbelled to receive floor-timbers.
Vaulted walls.

Outer walls supported by columns or pillars.

Mode of calculating the strength of materials to be used in building.

SECT. 9. In all calculations for the strength of materials to be used in any building, the proportion between the safe weight and the breaking weight shall be as one to three, for all beams, girders, and others pieces subjected to a cross strain, and as one to six, for all posts, columns, and other vertical supports, and for all tie-rods, tie-beams, and other pieces subjected to a tensile strain; and the requisite dimensions of each piece of material is to be ascertained by computation by the rules given by the best authorities, using for constants in the rules only such numbers as have been deduced from experiments on materials of like kind with that proposed to be used.

Side, end, or party walls not to be carried up in advance of rear walls.

Walls to be anchored to each other.

SECT. 10. In no case shall the side, end, or party, wall of any building be carried up in advance of the rear walls. The front, rear, side, end, and party, walls of any building hereafter to be erected, shall be anchored to each other every ten feet in their height, by tie-anchors, made of at least one and a quarter inch by three-eighths of an inch wrought-iron. The said anchors shall be built into the side or party walls not less than thirty-six inches; and into the front and rear walls at least one-half the thickness of the front and rear walls; so as to secure the front and rear walls to the side, end, or party, walls.

The side, end, or party, walls shall be anchored at each tier of beams, at intervals of not more than ten feet apart, with good, strong, wrought-iron anchors, at least one-half inch by one and one-half inch, well built into the side walls, and fastened to the top of the beams; and where the beams are supported by girders, the ends of the beams resting on the girder shall be butted together, end to end, and strapped by wrought-iron straps or tie-irons, at the same distances apart, and in the same beams as the wall anchors, and shall be well fastened.

Mortar.

All mortar shall be of the best quality for the purpose for which it is applied.

Party-walls to be carried up not less than two and one-half feet above the roof-covering.

SECT. 11. All party-walls shall be carried up to a height of not less than two and one-half feet above the roof-covering, with the full thickness of the party-wall, and shall be coped with stone or iron securely fastened. And where there is a flat, hip, or pitch, roof, the party-wall shall be carried up to a height of not less than two and

¹ Substitute, St. 1873, 298, § 5.

one-half feet above the roof covering, at every part of said roof, and shall be corbelled at least twelve inches, or to the outer edge of all projections on the front or rear walls of the building. And where the roof is of the kind known as Mansard, or French, or of any style excepting as above specified, unless the same is constructed of fire-proof materials throughout, the party-wall shall be carried up to a height of not less than two and one-half feet above the flat or upper slope of said roof, and shall extend through the lower slope, at least eighteen inches distant from and parallel with the roof covering, and be corbelled out at least twelve inches, or to the outer edge of all projections, and shall be coped with stone or iron: *provided*, that if a gutter-stone of suitable dimensions and properly balanced shall be inserted, it shall be equivalent to corbelling.

Mansard or French roofs.

All roof or floor timbers entering at the same party-wall from opposite sides, shall have at least four inches solid brick-work between the ends of said timbers.

SECT. 12. All stores or storehouses that may hereafter be built in said city, which are more than forty-five feet in height above the curb level, shall have doors, blinds, or shutters, made of fire-proof metal, on every window and entrance where the same do not open on a street. When in any such building the shutters, blinds, or doors, cannot be put on the outside of such door or window, they shall be put on the inside, and if placed on the inside they shall be hung upon an iron frame independent of the wood-work of the window-frame or door; and every such door, blind, or shutter, shall be closed upon the completion of the business of each day by the occupant having the use or control of the same; and all fire-proof shutters or blinds, that now are or may hereafter be put upon the front or sides of any building on the street fronts, must be so constructed that they can be closed and opened from the outside above the first story.

Fire-proof shutters in all stores more than forty-five feet in height, where windows do not open on a street.

Shutters to be closed at close of business for the day.

[SECT. 13.¹ All buildings hereafter erected to be used for railroad stations, public assemblies, school-houses, hotels, lodging or tenement houses, and manufactories, where there are to be more than twenty-five persons resident, assembled, or employed, above the first floor, shall be provided with staircases of, and enclosed with, non-combustible materials, and of a width to be approved by the inspector of buildings, and provided with doors opening outwards.]

Staircases in school-houses, etc., to be made of non-combustible materials.

SECT. 14. Any building already erected, or that may hereafter be erected, in which operatives are employed in any of the stories above the second story, shall be provided with such fire-escapes as shall be directed and approved by the inspector of buildings. And the owner or owners of any building upon which any fire-escapes may now be, or may hereafter be, erected, shall keep the same in good repair and well painted. And no person shall at any time place any incumbrance of any kind whatever upon any said fire-escapes now erected, or that may hereafter be erected, in said city.

Fire-escapes to be provided in buildings where operatives are employed.

SECT. 15. All buildings in the city of Boston, hereafter to be built, shall have scuttle-frames and covers, or bulkheads and doors on the roof, made of, or covered with, some fire-proof material, and all scuttles shall have stationary ladders leading to the same, and all such scuttles or ladders shall be kept so as to be ready for use at all times, and all scuttles shall not be less in size than two by three feet; and if a bulkhead is used or substituted in any building in place of a scuttle, it shall have stairs with a sufficient guard or hand-rail leading to the roof; and in case the building shall be a tenement-house, the door in the bulkhead, or any scuttle, shall at no time be locked, but may be fastened by movable bolts or hooks.

Scuttle-frames and covers, in all buildings in Boston, to be fire-proof.

SECT. 16. No smoke-pipe in any building with wooden or com-

Regulations concerning smoke-pipes.

¹ Substitute, 1873, 298, § 6.

1873, 298, § 7.

bustible floors and ceilings shall hereafter enter any flue, unless the said pipe where it enters the flue shall be at least twelve inches from either the floors or ceilings; and in all cases where smoke-pipes pass through stud or wooden partitions of any kind, whether the same be plastered or not, they shall be guarded by a soapstone ring, not less than four inches in thickness, and extend through the partition.

Furnaces.

In all cases where hot-water, steam, hot-air, or other, furnaces are used, the furnace smoke-pipe must be kept at least two feet below the beams or ceiling above the same, unless said beams or ceiling shall be properly protected by a shield or tin plate suspended at least one inch below said beams or ceiling above said smoke-pipe; and the top of all furnaces set in brick must be covered with brick, supported by iron bars, and so constructed as to be perfectly tight; said covering to be in addition to and not less than six inches from the ordinary covering to the hot-air chamber. If, however, there is not height enough to build the furnace top at least four inches below the floor-beams or ceilings, then the floor-beams must be trimmed around the furnace, and said covering, and the trimmers and headers, must be at least four inches from the same. The top of every portable furnace not set in brick shall be kept at least one foot below the beams or ceiling, with a shield of tin plate, made tight, and suspended not less than one inch below the said beams or ceilings, and extended one foot beyond the top of the furnace on all sides. All hot-air registers hereafter placed in the floor of any building shall be set in soapstone borders not less than two inches in width. All soapstone borders to be firmly set in plaster of Paris or gauged mortar. All floor register boxes to be made of tin plate, with a flange on the top to fit the groove in the soapstone, the register to rest upon the same. There shall also be an open space of one inch on all sides of the register box, extending from the underside of the ceiling, below the register, to the soapstone in the floor; the outside of said space to be covered with a casing of tin plate, made tight on all sides, to extend from the underside of the ceiling up to and turn under the said soapstone. Registers of fifteen by twenty-five inches or more, shall have a space of two inches. No wood-work shall be placed at a less distance than one-inch from any tin or other metal flue or flues, pipe or pipes, used or intended to be used to convey heated air in any building, unless protected by a soapstone or earthen ring or tube, or a metal casing so constructed as to permit free circulation of air around said pipes or flues. In all cases where hot-water, steam, hot-air, or other, furnaces or ranges, are hereafter placed, or their location changed, in any building, due notice shall first be given to the inspector of buildings, by the person or persons placing said furnace or ranges in said building.

Ranges and boilers.

In all cases where ranges or boilers are set the outside of the flue to the same shall be plastered on the outside directly upon the bricks up to the ceiling of the room.

Owner of building in Boston to be notified by inspector if chimney, etc., is unsafe.

SECT. 17. If any chimney, flue, or heating apparatus on any premises in the city of Boston, shall, in the opinion of the inspector of buildings, be dangerous or unsafe by reason of endangering the premises by fire or otherwise, the inspector shall at once notify in writing the owner, agent, or other party having an interest in said premises, and shall require him to make the same safe; and upon neglect of said person so notified to comply with the provisions of said notice, for a period of twenty-four hours after the service of said notice upon him, he shall at once become liable to a penalty of not less than twenty nor more than fifty dollars for every day's continuance of said unsafe structure.

Penalty.

SECT. 18. All boiler or engine rooms hereafter constructed in any building other than dwelling-houses, shall be constructed of brick and iron, and shall be so arranged that all openings between the said boiler or engine room, and other parts of the building in which it is placed, shall be closed by iron or metal covered doors, which shall be securely closed at the close of each day.

Boiler-rooms and engine-rooms.
1873, 298, § 8.

Upon a license being granted by the mayor and board of aldermen of the city of Boston for the erection of a steam-boiler, engine, or furnace for melting glass, iron, or other metal, in any building in the said city, the person or persons receiving said license shall, before setting, erecting, or placing, said boiler, engine, or furnace, file an application for a permit therefor with the inspector of buildings, who shall prescribe such regulations for the setting or placing thereof as the public safety may require; and no person or persons shall erect, set or place any boiler, engine, furnace, or oven, without a permit from said inspector.

All flues for ranges, boilers, furnaces, and ovens, shall be of brick-work, eight inches in thickness, to a height of twenty-five feet above such ranges, boilers, furnaces, or ovens.

Flues for ranges, boilers, etc.

SECT. 19. No Mansard or other roof shall be constructed more than one story in height, nor more than twenty feet in height from the upper floor of the building upon which it is placed to the highest part of said roof, unless the same is constructed of fire-proof material throughout. No bay-window shall be constructed of wood, which shall extend more than three feet above the second story from the street.

No roof to be more than one story in height.

Bay-windows made of wood.

All the exterior parts of any building or buildings hereafter erected which are more than forty-five feet above the level of the sidewalk, shall be made of or covered with non-combustible material, to be approved by the inspector of buildings. All fire-proof cornices shall be well secured to the walls with iron anchors, independent of any wood-work; and in all cases the walls shall be carried up to the planking of the roof, and, where the cornice projects above the roof, the wall shall be carried up to the top of the cornices, and all exterior wooden cornices that shall hereafter require to be replaced shall be constructed of some non-combustible material, as required for new buildings; and all exterior wooden cornices or gutters that may hereafter be damaged by fire shall be taken down, and if replaced shall be constructed of fire-proof material.

Exterior walls of buildings more than forty-five feet above sidewalk to be of non-combustible materials.

Cornices.

All buildings hereafter erected shall be kept provided with proper metallic leaders for conducting the water from the roof to the ground, sewer, or street gutter, in such manner as shall protect the walls and foundations from damage; and in no case shall the water from the said leaders be allowed to flow upon the sidewalk, but shall be conducted by drain pipe or pipes, to the street gutter or sewer.

Metallic leaders for conducting water from roof to the ground.

SECT. 20. [All buildings hereafter erected, the eaves of which exceed sixty feet in height above the level of the sidewalk, shall have the roofs thereof constructed in a fire-proof manner, as hereinafter specified. But the total height of such buildings, exclusive of chimneys and party-walls, shall not exceed seventy-five feet.

Roofs to be made fire-proof in all buildings where the eaves are sixty feet above the sidewalk.

All joists, beams, rafters, jack-rafters, plates, struts, ties, arches, shall be made of cast or wrought iron, or some other metal, stone, brick, cement, mortar, or other incombustible material, and covered with corrugated iron, sheet or cast iron, tin, zinc, or other metal, or slate, stone, brick, cement, mortar, or other incombustible material.

Repealed by St. 1873, c. 298, § 9.

All structures or projections above or outside of the roof, such as domes, cupolas, pavilions, towers, spires, pinnacles, buttresses, lanterns, louvres, luthern and dormer windows, skylights, scuttles, ven-

tilators, cornices, gutters, shall be made, constructed, framed, and covered, with cast or wrought iron, tin, copper, zinc, or other metal, or stone, slate, brick, cement or mortar, or other incombustible material.]

Buildings not to be raised or built upon in violation of provisions of this act.

Alterations in buildings to be made subject to approval of inspector.

SECT. 21. No building already erected, or hereafter to be built, in said city shall be raised or built upon in such manner that were such building wholly built or constructed after the passage of this act it would be in violation of any of the provisions of this act. And before any building built of stone, brick, or iron, or any wooden building with or without a brick front, in any part of said city, shall be enlarged, raised, altered, or built upon, the same shall be first examined by the said inspector to ascertain if the building or buildings, or either of them, are in a good and safe condition to be enlarged, raised, altered, or built upon; and no such buildings as aforesaid shall be enlarged, raised, altered, or built upon, until after such examination and decision; and the decision of said inspector under such examination shall be final and conclusive in the premises, except as hereinafter provided, and shall be made without delay.

Referees to settle questions which arise between inspector and owner.

SECT. 22. The inspector of buildings shall have full power to pass upon any question, arising under the provisions of this act, relative to the manner of construction, or materials to be used in the erection, alteration, or repair, of any building in the city of Boston, and he may require that plans of the proposed erection, alterations, or repairs, shall be submitted for inspection before issuing his permit: *provided, however, that should any question arise between the inspector of buildings and the owner or architect of any building, or should the owner or architect object to any order or decision of said inspector, the matter shall be referred to a committee of three persons, who shall be either architects or master-builders, one to be chosen by the inspector of buildings, one by the owner or other interested party, and these two shall choose a third, and the decision of these referees, submitted in writing, shall be final and conclusive in the premises.*

PENALTIES.

Penalties for violation of provisions of this act.

1871, 280.

1878, 298, § 10.

SECT. 23. If any person or persons, whether owner or owners, contractor or contractors, builder or builders, shall begin to erect, construct, build, or alter, any building or structure within the city of Boston, without first obtaining a permit from the inspector of buildings of said city, such person or persons shall forfeit and pay the sum of not less than one hundred dollars nor more than one thousand dollars for each and every such offence; and if any person, or persons, as aforesaid, shall proceed to complete any building or structure in the city of Boston, without having the same inspected as by law required, or shall violate any or either of the provisions of this act, or of the act of which this act is an amendment thereof, for the violation of which no other penalties are therein or herein before provided, he or they shall forfeit and pay not less than one hundred dollars and not more than one thousand dollars for each and every such violation, and the further sum of one hundred dollars for each and every week that he or they shall maintain any building or structure in violation of any provision of this act, or of the act of which this act is an amendment, or of any other act in amendment thereof. All penalties under this act shall be recoverable by the city of Boston in an action of tort. If any person or persons, whether owner or owners, contractor or contractors, builder or builders, shall erect or alter any building or structure in the city of Boston, in violation of any or either of the provisions of this act, or of the act of which this act is an amendment, or of any amendment thereof, it shall be lawful for the supreme judicial court, or any justice thereof, either in term

Penalties may be recovered in an action of tort.

time or in vacation, to issue forthwith an injunction restraining such person or persons from further progress in said work, until the facts of the case shall have been investigated and determined; and if it shall appear to said court or to any justice thereof, upon such investigation, that such building or structure does not in all respects conform to the provisions of this act, and of the act of which this act is an amendment, and of all amendments thereof, said court or justice shall issue an injunction to restrain the continuance of the work upon such building or structure, and shall order the removal, within a time to be fixed by said court or justice, of so much of said building or structure as may be decreed by said court or justice to be in violation of the provisions of this act, or of the act of which this act is an amendment, or of any act in amendment thereof.

Injunction may be issued by supreme judicial court.

SECT. 24. The provisions of this act shall not apply to the passenger-stations of the Boston and Lowell, and Boston and Providence, railroad corporations, now in process of erection in the city of Boston; but such precautions shall be provided for protection against, and for the extinguishment of, fire, under the penalties of this act, as the inspector of public buildings shall require.

Provisions not to apply to passenger-stations of Boston and Lowell, and Boston and Providence, railroad corporations.

SECT. 25. The inspector and assistant inspectors of the department for the survey and inspection of buildings in the city of Boston shall be able and experienced architects, builders, or mechanics, competent to perform all the duties of the office to which they are appointed, and such inspectors shall not be employed or engaged in any other vocation, or be interested in any contract or contracts for building or for furnishing materials.

Inspector to be competent to perform duties, and not to be engaged in any other business.

SECT. 26. This act shall take effect upon its passage.

December 14, 1872.

[1871, 280; 1872, 260; 1873, 298, 338; 1876, 69, 176; 1882, 101, 252; 1883, 155, 178.]

1872. — CHAPTER 377.

AN ACT TO ESTABLISH A GRADE IN THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. The board of aldermen of the city of Boston shall establish in said city a grade not less than twelve feet above mean low water; and no person shall, in said city, after such grade is established, construct any cellar or basement cellar of any dwelling-house or other building below such grade, or use or occupy any cellar or basement cellar constructed below the same: *provided*, that the board of aldermen may, by license, subject to revocation at any time by them, authorize cellars to be constructed in buildings used exclusively for storage or business purposes, so much below said grade as they shall designate in each license.

Grade of twelve feet above mean low water to be established in Boston.

S. & O. p. 147.

Proviso.

SECT. 2. If any person constructs, uses, or occupies, any cellar or basement cellar in violation of section one of this act, said board of aldermen shall order the owner or occupant of such cellar or basement cellar to so alter and construct it as to conform to the requirements of said section; and if such owner or occupant fails to comply with such order within ten days after service thereof, as provided by the following section, said board shall so alter such cellar or basement cellar, and all necessary expenses incurred thereby shall constitute a lien upon the land wherein such cellar or basement cellar is constructed, and upon the buildings upon such land, and may be collected in the manner provided by law for the collection of taxes upon

Penalty.

real estate ; and the city treasurer of said city may purchase such land or land and buildings, in behalf of said city.

Orders to be made in writing.

Supreme judicial court may restrain by injunction, etc.

SECT. 3. All orders under the preceding section shall be made in writing, and served upon said owners or occupants or their authorized agents, as prescribed by section nine of chapter twenty-six of the general statutes, for the service of orders of boards of health ; and the supreme judicial court, or any justice thereof, in term time or vacation, may by injunction or other suitable process in equity, restrain any person or corporation from constructing, using, or occupying, any cellar or basement cellar in violation of the provisions of section one of this act, and may enforce such provisions, and may order and enforce the abatement or alteration of any cellar or basement cellar constructed, used, or occupied, in violation thereof, so as to comply with said provisions.

SECT. 4. This act shall take effect upon its passage.

December 18, 1872.

1873. — CHAPTER 4.

AN ACT TO AUTHORIZE THE ERECTION OF WOODEN BUILDINGS IN THE CITY OF BOSTON FOR SANITARY PURPOSES.

Be it enacted, etc. :

Boston may erect wooden buildings for hospital purposes.
Proviso.

SECTION 1. The city of Boston is hereby authorized to erect, under directions of its board of health and inspector of buildings, any wooden buildings within the city, for hospital purposes, the same to remain only so long as said board deems it necessary : *provided*, that every such hospital shall be constantly guarded outside by a competent force of at least three of the police of said city.

SECT. 2. This act shall take effect upon its passage.

January 28, 1873.

1873. — CHAPTER 174.

AN ACT IN ADDITION TO "AN ACT INCORPORATING THE MASSACHUSETTS INSTITUTE OF TECHNOLOGY."

Be it enacted, etc. :

Grant of lot of land in Boston, free of rent.

Description of land.

Right granted subject to stipulations contained in former acts.

Land to revert to commonwealth if not used for legitimate objects.

SECTION 1. Perpetual right is granted to the Massachusetts Institute of Technology to hold, occupy, and control, free of rent or charge by the commonwealth, for the uses and purposes of said institute, a parcel of land situated, in that part of Boston called the Back Bay, and described as follows : a lot in the form of a trapezoid, lying at the intersection of Boylston street and Huntington avenue, bounded by said street and avenue, and on the west by abutting land, as laid down on the selling plan of the commissioners on public lands, and containing thirteen thousand one hundred and ninety-four square feet ; said lot to be subject to the limitations and stipulations relative to lands of the commonwealth on the south side of Boylston street, and to be reserved from sale forever.

SECT. 2. The right hereby granted to said institute shall be held subject to the same stipulations in relation to membership, the reception of pupils, the erection of a building, and the care of the lot, as are created and established by the several acts relating to said institute.

SECT. 3. In case said institute appropriates said lot of land to any purpose or use foreign to its legitimate objects, then the commonwealth, after due notice given, may enter upon said lot and take pos-

session thereof, and the right of the said institute to the use, occupation and control of said lot shall thereupon cease.

SECT. 4. This act shall take effect upon its passage.

April 8, 1873.

[1875, 195; 1881, 107.]

1873. — CHAPTER 205.

AN ACT CONCERNING SEWERS AND DRAINS IN THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. The board of aldermen of the city of Boston may, for the purposes of sewerage and drainage, take and divert the water of any streams or water-courses within the limits of said city, and devote the same to the purposes aforesaid; and may take all necessary land to widen, deepen, or straighten, the channel of such water-courses, and pave, enclose, and cover, the same.

Streams and water-courses may be diverted for drainage purposes.
9 Cush. 233.

SECT. 2. In taking said water-courses or lands for the purposes aforesaid, the said board of aldermen shall proceed in the manner required by law in cases where land is taken for highways; and persons suffering damage in their property shall have the same rights and remedies for the ascertainment and recovery of such damages, as are provided by law for the ascertainment and recovery of damages for lands taken for highways.

Proceedings as in taking land for highways.

Damages.

SECT. 3. This act shall take effect upon its passage.

April 16, 1873.

1873. — CHAPTER 207.

AN ACT AUTHORIZING THE COMMISSIONERS ON PUBLIC LANDS TO SELL A LOT OF LAND TO THE CITY OF BOSTON FOR SCHOOL PURPOSES.

Be it enacted, etc.:

SECTION 1. The commissioners on public lands are authorized to sell and convey to the city of Boston a lot of land on the Back Bay in said city, for the purpose of erecting a school-house thereon, upon such terms and conditions as the governor and council shall approve.

Commissioners may sell land for a school-house to the city of Boston.

SECT. 2. This act shall take effect upon its passage.

April 16, 1873.

1873. — CHAPTER 235.

AN ACT IN ADDITION TO AN ACT TO INCORPORATE THE UNION FREIGHT RAILROAD COMPANY.

Be it enacted, etc.:

SECTION 1. The Union Freight Railroad Company is authorized and required to receive and deliver passenger cars at each of its connections with the tracks of other railroad corporations made pursuant to the provisions of its charter, and to haul such cars over its road at its established rates; *provided*, that nothing in this act shall be construed as affecting any legal rights of the Commercial Freight and Marginal Freight Railway Companies.

To receive and deliver passengers at its connections with other railroads.

Proviso.

SECT. 2. This act shall take effect upon its passage.

April 25, 1873.

[1872, 342; 1876, 229.]

1873. — CHAPTER 258.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO APPROPRIATE MONEY FOR THE RELIEF OF DISABLED FIREMEN AND THE FAMILIES OF THOSE KILLED.

Be it enacted, etc.:

May expend
\$3,000 annually
for relief of dis-
abled firemen,
etc.

Repeal of 1854,
875.
1880, 107.

SECTION 1. The city of Boston may expend a sum not exceeding three thousand dollars annually, for the relief of firemen disabled, and of the families of firemen killed, in the service of the city.

SECT. 2. Chapter three hundred and seventy-five of the acts of the year eighteen hundred and fifty-four is repealed.

April 30, 1873.

1873. — CHAPTER 260.

AN ACT RELATING TO THE CHANNEL OF MUDDY RIVER IN BROOKLINE.

Be it enacted, etc.:

May conduct
waters of Muddy
river in a more
direct line to
Charles river.

Damages.
1872, 267, § 3.

Drains and sew-
ers of Boston
may be extended
into the new
channel.

SECTION 1. The town of Brookline may make a new channel within its own territory to conduct the waters of Muddy river in a more direct line to Charles river, and for this purpose the real estate of any person may be taken. The proceedings shall be the same in all respects as in laying out of town ways; and all persons suffering damage in their property, by reason thereof, shall have the same rights and remedies for the ascertainment and recovery of such damages as in the case of the laying out of town ways.

SECT. 2. Drains and sewers of the city of Boston now discharging into Muddy river above the point at which the boundary line between Boston and Brookline, running from Charles river southerly along the easterly line of Saint Mary's street extended, strikes the present channel of Muddy river, may be extended by said city through any lands or ways in said city or town into the new channel provided for by this act, the cost of such extension to be reimbursed to said city by said town; and said city shall have the right to enter new drains or sewers through said lands or ways into the new channel to the same extent that it now has the right to enter the same into the present channel of Muddy river.

SECT. 3. This act shall take effect upon its passage.

May 2, 1873.

1873. — CHAPTER 286.

AN ACT TO UNITE THE CITY OF CHARLESTOWN WITH THE CITY OF BOSTON.

Be it enacted, etc.:

Charlestown an-
nexed to Boston
and to become
part of Suffolk
county.

Proviso.

Election of rep-
resentatives,
senator, coun-
cillor, and mem-
ber of congress.

SECTION 1. All the territory now comprised within the limits of the city of Charlestown, in the county of Middlesex, with the inhabitants and estates therein, is annexed to and made part of the city of Boston, in the county of Suffolk, and shall hereafter constitute a part of the county of Suffolk, subject to the same laws, municipal regulations, obligations, and liabilities, and entitled to the same privileges and immunities in all respects as the said city of Boston: *provided, however,* that until constitutionally and legally changed, said territory shall continue to be, for the purpose of electing members of the house of representatives, part of the county of Middlesex, constituting the first, second, and third, representative districts thereof; for the purpose of electing a senator, the first Middlesex senatorial

district; for the purpose of electing a councillor, part of council district number six; and for the purpose of electing a representative in congress, part of congressional district number five, as the same are now constituted.

All the duties now required by law to be performed by the mayor and aldermen and city clerk of the city of Charlestown, or either of them, pertaining to the election of representatives in congress, state councillors, senators, and members of the house of representatives, shall in like manner devolve upon and be performed by the board of aldermen and city clerk of the city of Boston.

Duties of officers pertaining to elections.

It shall be the duty of the ward officers of the several wards, as now established in said city of Charlestown, as hereafter provided, respectively, to make return of all votes that may be cast therein, from time to time, for representatives in congress, state councillors, senators, members of the house of representatives, and for all other national, state, district, county, municipal, and ward officers, to the city clerk of the city of Boston.

SECT. 2. All the public property of the said city of Charlestown shall be vested in and is declared to be the property of the city of Boston; and said city of Boston shall succeed to all the rights, claims, causes of action, rights to uncollected taxes, liens, uses, trusts, duties, privileges, and immunities, of said city of Charlestown. The city treasurer of the said city of Charlestown shall, on or before the second Monday of January, in the year eighteen hundred and seventy-four, under the direction of the mayor and aldermen of said city of Charlestown, who shall for this purpose and for all other purposes necessary to carry into full effect the provisions of this act, continue to hold their offices over, transfer, deliver, pay over, and account for, to the city treasurer of the city of Boston, all books, papers, moneys, and other property, in their possession as city treasurer of said city of Charlestown, when this act shall take effect; and the city of Boston shall become liable for and subject to all the debts, obligations, duties, responsibilities, and liabilities, of said city of Charlestown. All actions and causes of action which may be pending, or which shall have accrued at the time this act shall take effect, in behalf of or against said city of Charlestown, shall survive, and may be prosecuted to final judgment and execution in behalf of or against the city of Boston.

Public property of Charlestown to be vested in the city of Boston.

Treasurer of Charlestown to deliver books and other property to treasurer of Boston.

Boston liable for debts of Charlestown.

Pending actions to survive.

SECT. 3. The several courts within the county of Suffolk, except the municipal courts of the city of Boston, after this act shall take effect, shall have the same jurisdiction over all causes of action and proceedings in civil causes, and over all matters in probate and insolvency, which shall have accrued within said territory hereby annexed, that said courts now have over like actions, proceedings, and matters, within the county of Suffolk: *provided, however*, that the several courts within the county of Middlesex shall have and retain jurisdiction of all actions, proceedings, and matters, that shall have been rightfully commenced in said courts prior to the time when this act shall take effect; and the supreme judicial court and the superior court within the county of Suffolk, after this act shall take effect, shall have the same jurisdiction of all crimes, offences, and misdemeanors, that shall have been committed within the said territory of the city of Charlestown, that the supreme judicial court and superior court within the county of Middlesex now have; but if before this act takes effect proceedings shall have been commenced in any of the courts within the county of Middlesex for the prosecution of said crimes, offences, and misdemeanors, the said courts within the county of Middlesex shall have and retain jurisdiction of the same for the full, complete, and final, disposition thereof. All suits, actions,

Jurisdiction of courts in Suffolk county.

Jurisdiction of courts in Middlesex county.

proceedings, complaints, and prosecutions, and all matters of probate and insolvency, which shall be pending within said territory of the city of Charlestown before any court or justice of the peace, when this act shall take effect, shall be heard and determined as though this act had not passed.

Territory of Charlestown to constitute a judicial district. Municipal court for Charlestown district.

SECT. 4. Said territory of the city of Charlestown shall constitute a judicial district under the jurisdiction of the police court of the city of Charlestown, which shall continue to exist, and shall hereafter be designated and known by the name of the municipal court for the Charlestown district of the city of Boston. Said court shall have the same civil and criminal jurisdiction in said district and the same civil jurisdiction in the county of Suffolk, as the police courts, other than that of the city of Boston, have by law, in their respective counties; and it shall have no other jurisdiction. Appeals shall be allowed from all judgments of said court in like manner and to the same courts that appeals are now allowed from the judgments of the municipal court of the city of Boston. All acts and duties, if any, now incumbent upon the city council of the city of Charlestown, or either branch thereof, relating to the said court of the city of Charlestown, shall hereafter devolve upon and be performed by the city council of the city of Boston. All fines and forfeitures, and all costs in criminal prosecutions in said court, and all fees and charges received in said court in civil proceedings, shall be accounted for and paid over in the same manner as is now provided for the municipal court within the city of Boston.

Ward limits to remain unchanged.

SECT. 5. The three wards now established in said city of Charlestown shall so remain until alteration of the ward limits of said city of Boston, provided by law. And each of the wards so established shall be entitled to all the municipal and ward officers which each of the other wards of said city of Boston is entitled to, except as herein-after provided; and the board of aldermen of said city of Boston shall, in due season, issue their warrants for meetings of the legal voters of said wards respectively, to be held on the second Tuesday in December, in the year eighteen hundred and seventy-three, at some place within said wards respectively, which shall be designated in said warrants, there to give in their ballots for the several municipal and ward officers for the year eighteen hundred and seventy-four, for which they shall be entitled to vote by virtue of the provisions of this act. The ward officers of the wards now established in said city of Charlestown shall hold their respective offices until the first Monday of January, in the year eighteen hundred and seventy-four, and until others shall be chosen and qualified in their stead. And in case of the absence or resignation of any ward officer, others may be chosen as now provided by law, and they shall perform all the duties required of ward officers during their continuance in office.

Ward officers to hold office until first Monday of January, 1874.

School committee.

The term of office of the school committee men heretofore chosen in each of the wards of the said city of Charlestown shall expire on the first Monday of said January; and there shall be chosen at the election heretofore provided for in this section, three persons from each of said wards to be members of the school committee of the city of Boston, one for three years, one for two years, and one for one year, and thereafter all vacancies in said committee shall be filled as now provided by law for filling vacancies in the school committee of said city of Boston.

The board of aldermen of the city of Boston shall prepare lists of all the legal voters in said wards of the city of Charlestown, to be used at said meetings, and shall do all other things which they are now by law required to do in respect to like elections in other wards in the city of Boston, and at said meetings any legal voter of said

wards, respectively, may call the citizens to order, and preside until a warden shall have been qualified.

All ward officers whose election is provided for in this section shall be qualified according to law. The citizens of the territory by this act annexed to the city of Boston shall have the same right to vote for municipal officers, at the annual municipal election of the city of Boston, in the year eighteen hundred and seventy-three, as they would have had if said territory had formed part of the city of Boston for more than six months next before said election. Wards one, two, and three, of Charlestown, for all municipal purposes, shall be known as and called, respectively, wards twenty, twenty-one, and twenty-two, of Boston.

Citizens may vote for municipal officers of Boston in the year 1873.

Wards to be known as wards 20, 21, and 22.

SECT. 6. All provisions of law requiring an election of municipal and ward officers for said city of Charlestown, on the second Tuesday of December in the year eighteen hundred and seventy-three, for the municipal year then next ensuing, are hereby repealed.

Repeal.

SECT. 7. Until alteration of the ward limits of said city of Boston, as provided by law, the common council shall consist of the lawful number of members from each ward, and the territory hereby annexed shall be entitled to six members of said council, two from each ward.

Two members of common council from each ward.

SECT. 8. The several police-officers and watchmen, the engineers and members of the fire department that may be in office in the city of Charlestown, when this act shall take effect, shall thereafter continue in the discharge of their respective duties, in the same manner as if they were police-officers and watchmen, and engineers and firemen, of the city of Boston, until others shall be appointed in their stead. The several justices of the peace, masters in chancery, and notaries-public, residing in Charlestown, shall continue to act in their said capacities respectively, within the said territory of Charlestown, but their authority to act in their said capacities shall in no wise be increased or diminished during the terms of their commissions by virtue of any provisions of this act.

Police-officers and firemen of Charlestown to continue in the discharge of their duties.

SECT. 9. All the interest which said city of Charlestown now have in the public property of the county of Middlesex, is hereby released and acquitted to said county of Middlesex. If the county commissioners of the county of Middlesex, within six months after the acceptance of this act by said cities, as hereinafter provided, shall elect to apply to the justices of the supreme judicial court, sitting in either the county of Suffolk or of Middlesex, for the appointment of a committee of three disinterested persons to ascertain whether anything should, in justice and equity, be paid by said city of Charlestown to the county of Middlesex, towards the liquidation of its debts, in addition to the relinquishment of said city's share of the county property; then, on notice being given of the said application, such committee shall be appointed, who shall take an estimate of the county property, in which due allowance shall be made for any permanent expenditures that may have been incurred for the especial accommodation of said city of Charlestown, and shall also take an account of the county debts, and shall decide and report what sum, if anything, should be paid by either party to the other; and the report of said committee, when accepted by said court, shall be binding and conclusive, and whatever shall be found due, whether from or to the county of Middlesex, shall be paid to or by said city of Boston and said Charlestown, thus united. But if no such application be made by the said county commissioners within said time, then the county of Middlesex shall not be required to make any allowance for the surplus value of the county property after the payment of the county debt.

Interest of Charlestown in county property released to Middlesex. Committee may be appointed by supreme judicial court to determine if any payment should be made by Charlestown to Middlesex county.

SECT. 10. The volumes now in the registry of deeds office for the southern district of the county of Middlesex, containing the records

Transfer of volumes in registry for southern dis-

trict of Middlesex to registry for Suffolk.

exclusively relating to lands and estates within the territory so transferred, shall be deposited by the register for the southern district of said county in the registry of deeds office for said county of Suffolk, the same to be there kept and used in the same manner as the records of said county of Suffolk are kept and used.

Liability for taxes.

SECT. 11. The territory so transferred, and the inhabitants thereon and their estates, shall be liable for all taxes already assessed and not paid; and also all city, county, and state, taxes that may be hereafter assessed on them by said city of Charlestown, and before this act shall take effect, in the same manner as they would have been liable if this act had not been passed. And the city treasurer and collector of said city of Charlestown are hereby respectively authorized to collect the same in the manner prescribed by law after this act shall take effect.

Trustees to continue to manage school and poor funds according to the terms of their trusts.
1823, 40.
1868, 301.

SECT. 12. The two corporations holding trust funds in said city of Charlestown, one being the trustees of the Charlestown free schools, and the other the trustees of the poor's fund in the town of Charlestown, shall continue to manage their funds and disburse the income thereof according to the terms of their respective trusts. The members of the school committee within the present limits of Charlestown for the time being, shall be the corporation first above named; and the members of the two branches of the city council for the time being, residing in said present limits of Charlestown, shall, together with the senior deacons of the religious societies in said present limits of Charlestown, be the said trustees of the poor's fund.

Public library.

The Charlestown public library, with all the books and documents which now or hereafter may belong thereto, shall be continued and kept within the present limits of said Charlestown; and it shall have the benefit of all gifts and legacies made heretofore or hereafter in its behalf. The trustees of the Charlestown public library shall hold their offices until the first Monday of May in the year eighteen hundred and seventy-four, or until the annual organization of the board of trustees of the Boston public library in that year. Thereafter it shall become a branch of the public library of Boston.

Mystic water board to be continued as a separate organization.

The Mystic water board of Charlestown shall be continued a separate organization under the direction of the city council of Boston, until the said city council shall determine to unite it with the Cochituate water board of Boston. The members of the Mystic water board shall hold their offices for the terms for which they were respectively elected; and all contracts made and liabilities incurred by the Mystic water board shall be assumed by the city of Boston.

Charters of Boston and Charlestown amended.

SECT. 13. The charter of the city of Boston, and the charter of the city of Charlestown, and the several acts passed in addition thereto, are amended so as to conform to the provisions of this act; and so much of the general statutes and laws as may be inconsistent with this act is amended so as not to apply to or repeal any of the provisions herein contained.

Obligation of contracts not impaired.

SECT. 14. Nothing contained in this act shall impair the obligation of contracts; and the property and inhabitants of the territory by this act annexed to the city of Boston shall continue liable to the existing creditors of the county of Middlesex, in like manner as if this act had not been passed: *provided*, that if any person, by reason of his being an inhabitant of, or owning property in, said territory, shall be compelled to pay any existing debt or obligation of the county of Middlesex, the amount of such payment shall constitute a debt to him from said county, as hereafter to be constituted, exclusive of said territory, and may be recovered in like manner as other debts against the county of Middlesex.

Proviso.

Act not to take full effect unless

SECT. 15. This act shall not take full effect unless accepted by a

majority of the legal voters of the city of Boston, present and voting thereon, by ballot, at meetings which shall be held in the several wards of said city of Boston; and also by a majority of the legal voters of the city of Charlestown, present and voting thereon, by ballot, at meetings which shall be held in the several wards of said city of Charlestown, upon notice duly given, at least seven days before the time of said meeting. Meetings for that purpose shall be held simultaneously in said cities, on the first Tuesday of October next; and the polls shall be opened at nine o'clock in the forenoon of said day, and shall be closed at six o'clock in the afternoon. In case of the absence of any ward officer at any ward meeting held in either city for the purpose aforesaid, a like officer may be chosen *pro tempore*, by hand vote, and shall be duly qualified and have all the powers, and be subject to all the duties, of the regular officer at said meetings. Said ballots shall be "yes" or "no," in answer to the question, "Shall an act passed by the legislature of the commonwealth in the year eighteen hundred and seventy-three, entitled an 'act to unite the city of Charlestown with the city of Boston,' be accepted?" Such meeting shall be called, notified, and warned, by the mayor and aldermen of the city of Charlestown, and by the board of aldermen of the city of Boston, respectively, in the same manner in which meetings for the election of municipal officers in said cities, respectively, are called, notified, and warned. The ballots given in shall be assorted, counted, and declared, in the wards in which they are given, in open ward meeting in said cities, and shall also be registered in the ward records respectively. The clerk of each ward in the city of Boston, shall make return of all ballots given in, in his ward, and the number of ballots in favor of the acceptance of this act, and the number of ballots against said acceptance, to the board of aldermen of the city of Boston, and like returns by the clerks of the several wards in the city of Charlestown shall be made to the mayor and aldermen of the city of Charlestown. All of said returns shall be made within forty-eight hours of the close of the polls.

It shall be the duty of the board of aldermen of the city of Boston, and of the mayor and aldermen of the city of Charlestown, to certify and return, as soon as may be, the ballots cast in their respective cities, and the number of ballots cast in favor of the acceptance of this act, and the number of ballots cast against such acceptance, in their respective cities, to the secretary of the commonwealth. And if it shall appear that a majority of the votes cast in each of said cities, respectively, is in favor of the acceptance of this act, the said secretary shall immediately issue and publish his certificate declaring this act, to have been duly accepted; and, after such publication and declaration, it shall not be lawful for the city council of Charlestown, or of any board charged with the care of public property of said city, to contract any loan or to make any new appropriation of money, or to disburse any money except in accordance with appropriations and orders legally made before the acceptance of this act, unless the same shall first be approved by the mayor and the board of aldermen of Boston.

SECT. 16. So much of this act as authorizes and directs the submission of the question of the acceptance of this act to the legal voters of said cities respectively, provided in the fifteenth section of this act, shall take effect upon its passage.

SECT. 17. If this act shall be accepted by said cities, as herein provided, it shall take effect on the twelfth day of November, in the year eighteen hundred and seventy-three, so far as to authorize, legalize, and carry into effect, the acts and provisions of the fifth, sixth, and seventh, sections of this act, but for all other purposes (except

accepted by voters of Boston and Charlestown.

Meetings to be held on the first Tuesday of October, 1873.

Ward officers may be chosen *pro tempore*.

Ballots.

Manner of calling meetings.

Result of balloting to be recorded and returned.

Returns to be made to the secretary of the commonwealth.

Secretary to publish certificate, if a majority of votes is cast in favor of acceptance.

Portion of act to take effect upon its passage.

To take effect Nov. 12, 1873, if accepted.

as mentioned in section sixteen of this act), it shall take effect on the first Monday of January, in the year eighteen hundred and seventy-four.

Proceedings in case supreme judicial court declare the balloting to be void.

SECT. 18. If any election or balloting upon the question of the acceptance of this act, by either of said cities, shall, within two months thereafter, be declared void by the supreme judicial court, upon summary proceedings, which may be had in any county on the petition of fifty voters of either city, the question of accepting said act shall be again submitted to the legal voters of said city; and meetings therefor shall within thirty days thereafter be called, held, and conducted, and the votes returned and other proceedings had thereon, in like manner as hereinbefore provided. But no election or balloting shall be held void for informality in calling, holding, or conducting, the election, or returning the votes, or otherwise, except upon proceedings instituted therefor and determined within sixty days thereafter, as aforesaid.

May 14, 1873.

1873. — CHAPTER 287.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO BUILD AN ADDITIONAL RESERVOIR.

Be it enacted, etc.:

May construct a reservoir at Parker hill.

SECTION 1. The city of Boston, by and through the agency of the Cochituate water board therein, or by and through any other agency which shall be established therefor by the city council of said city, may construct and maintain an additional reservoir for receiving, holding, and distributing, water; and for this purpose, may take and hold, by purchase or otherwise, any real estate not exceeding five acres at or near the summit of Parker hill, so called, in ward fifteen in said city.

May lay pipes, and enter upon and dig up streets.

SECT. 2. The city of Boston may also, by and through the same agency, lay and maintain one or more suitable lines of pipes from the said reservoir to a convenient point in Fisher avenue, so called, and from said point along said Fisher avenue to Parker street in said city; and may take and hold, by purchase or otherwise, such real estate as may be necessary therefor; and may carry and conduct the said pipes over or under any water-course, or any street, turnpike road, railroad, highway, or other way, in such manner as not to unnecessarily obstruct or impede travel thereon; and may enter upon and dig up any such road, street, or way, for the purpose of laying the said pipes and for maintaining and repairing the same.

Liability for damages.

SECT. 3. The city of Boston shall be liable to pay all damages sustained by any persons in their property, by the taking of any real estate as aforesaid, or by any of its doings under this act; and in regard to such taking, and the ascertainment and payment of all such damages, the city of Boston, and all persons claiming damages, shall have all the rights, immunities, and remedies, and be subject to all the duties, liabilities, and obligations, which are provided in the one hundred and sixty-seventh chapter of the acts of the year eighteen hundred and forty-six, the one hundred and eighty-seventh chapter of the acts of the year eighteen hundred and forty-nine, and the three hundred and sixteenth chapter of the acts of the year eighteen hundred and fifty.

May issue scrip at six per cent. interest.

SECT. 4. For the purpose of defraying all the costs and expenses of such real estate as shall be taken, purchased, or held, for the purposes mentioned in this act, and of constructing said reservoir, laying said pipes, and doing all other things incident thereto, the

said city council may issue, from time to time, notes, scrip, or certificates of debt, to such an amount as may be necessary, and in such form, on such length of time, and bearing such rate of interest, not exceeding six per centum per annum, as they shall deem expedient.

SECT. 5. This act shall take effect upon its passage.

May 14, 1873.

[1846, 167; 1849, 187; 1850, 316; 1875, 80.]

1873. — CHAPTER 298.

AN ACT TO AMEND CHAPTER THREE HUNDRED AND SEVENTY-ONE OF THE LAWS OF THE YEAR EIGHTEEN HUNDRED AND SEVENTY-TWO, RELATING TO THE REGULATION AND INSPECTION OF BUILDINGS IN THE CITY OF BOSTON, AND FOR OTHER PURPOSES.

Be it enacted, etc.:

SECTION 1. Section one of chapter three hundred and seventy-one of the laws of the year eighteen hundred and seventy-two is amended by adding the following at the end thereof: — Amendment to 1872, 371, § 1.

“The amount of materials above specified for external walls may be used either in piers or buttresses: *provided*, the external walls between said piers or buttresses shall in no case be less than twelve inches thick. If adjoining owners, instead of a party-wall, shall each at the same time erect a wall on his own land, such walls may be twelve inches each in thickness, to such height as they shall be contiguous.

SECT. 2. Section five of said act is amended by striking out the words “into the backing,” and substituting therefor the words “with Flemish header or”; also by striking out the words “and shall not be built to a greater height than prescribed for twelve-inch walls,” and substituting therefor the words “and each stone of said ashlar work shall be securely tied to the backing by one or more suitable metal anchors.” Amendment to 1872, 371, § 5.

SECT. 3. Section six of said act is amended by inserting after the words “wooden columns,” the words “or brick piers”; also by striking out all after the words “footing course,” and substituting therefor the words, “or leveller for each column not less than three feet six inches square, and one foot six inches thick. If the girders resting on said columns are entirely of wood, said columns shall not be more than twelve feet apart on the line of the girders.” Amendment to 1872, 371, § 6.

SECT. 4. Section seven of said act is amended by striking out all words after the words “commonly used except,” to and including the words “ends of the same,” and substituting therefor the words “arch-forms for interior arched openings.” Amendment to 1872, 371, § 7.

SECT. 5. Section eight of said act is amended by striking out all after the words “wet when laid,” and substituting therefor the following: — Amendment to 1872, 371, § 8.

“Isolated brick piers under all lintels, girders, iron, or other columns, shall have a cap-iron at least two inches thick, or a granite cap-stone at least twelve inches thick, the full size of the pier. In the case of an external brick pier, the plate may be reduced sufficiently in size to allow four inches of brick-work to intervene between the edge or edges of the plate and the face or faces of the pier exposed to the weather. Columns supported by brick walls or piers, shall rest upon an iron plate at least two inches thick, or upon a granite cap-stone at least twelve inches thick, of a size satisfactory to the in-

spector of buildings. Under iron columns shall in all cases be an iron plate of not less than one and one-half inches in thickness."

Amendment to
1872, 371, § 13.

SECT. 6. Section thirteen of said act is hereby amended by substituting the following words therefor:—

"In any building hereafter erected, to be occupied as a tenement or lodging house, in which the lower part is intended to be used for business or manufacturing purposes of any kind, or which is intended to be occupied by more than four families, the hall partitions from the cellar to the second floor shall be built of brick."

Amendment to
1872, 371, § 16.

SECT. 7. Section sixteen of said act is amended by adding to said section, the words "and no wood-work shall be placed on the outside thereof."

Amendment to
1872, 371, § 18.

SECT. 8. Section eighteen of said act is hereby amended by striking out the words "or engine," wherever they occur.

Buildings not to
be more than
eighty feet in
height, except
churches and
grain elevators.

SECT. 9. All buildings hereafter erected or increased in height, except churches and grain elevators, shall not exceed a height greater than eighty feet to the highest point from the level of the sidewalk, exclusive of chimneys and party-walls above the roof: *provided, however*, that an additional height may be added, if said addition shall be constructed in a fire-proof manner, as herein named, to wit:— All joists, beams, rafters, purlins, jack-rafters, plates, studs, ties, and arches, shall be made of cast or wrought iron, or some other metal, stone, brick, cement, mortar, or other incombustible material, and covered with corrugated iron, sheet or cast iron, tin, copper, zinc, or other metal, or slate, stone, brick, cement, mortar, or other incombustible material. All structures or projections above or outside of the roof, such as domes, cupolas, pavilions, towers, spires, pinnacles, buttresses, lantern louvres, luthern or dormer windows, skylights, scuttles, ventilators, cornices, and gutters, shall be made, constructed, framed, and covered, with cast or wrought iron, tin, copper, zinc, or other metal, or stone, slate, brick, cement or mortar or other incombustible material. Section twenty of said act is hereby repealed.

Repeal of 1872,
371, § 20.

Amendment to
1872, 371, § 23.

SECT. 10. Section twenty-three of said act is hereby amended by inserting after the words "shall erect or alter any building or structure in the city of Boston, in violation of any or either of the provisions of this act, of the act of which this act is an amendment, or or of any amendment thereof," the words "or in violation of any ordinance enacted by the city council of the city of Boston, under authority given it by chapter two hundred and eighty of the laws of the year eighteen hundred and seventy-one, or of any law or laws in addition thereto or amendment thereof."

Inspectors of
buildings to in-
spect buildings
reported to be
dangerous or
unsafe.

SECT. 11. If any building or parts of a building, staging, or other structure, or anything attached to or connected with any building or other structure in the city of Boston, shall, from any cause, be reported dangerous or unsafe, so as to endanger life and limb, it shall be the duty of the inspector of buildings to inspect such structure, and if, in his opinion, the same be dangerous, he shall immediately notify the owner, agent, or other party having an interest in said structure, to cause the same to be made safe and secure, or removed, as may be necessary.

Building to be
made safe or to
be removed as
soon as possible.

SECT. 12. The person or persons so notified shall be allowed until twelve o'clock noon of the day following the service of such notice, in which to commence the securing or removal of the same; and he or they shall employ sufficient labor to remove or secure the same as expeditiously as can be done: *provided, however*, that in cases where the public safety requires immediate action, the inspector of buildings may enter upon the premises with such workmen and assistants as may be necessary, and cause the said unsafe structure to be shored

Proviso.

up, taken down, or otherwise secured, without delay, and a proper fence or boarding to be put up for the protection of passers-by.

SECT. 13. If the owner, agent, or other party interested in said unsafe structure, having been notified, shall refuse or neglect to comply with the requirements of said notice within the time specified in section ten, then a careful survey of the premises named in said notice shall be made by three disinterested persons, one to be appointed by the inspector of buildings, one by the owner or other interested party, and the third chosen by these two, and the report of such survey shall be reduced to writing, and a copy served upon the owner or other interested party; and if said owner or other interested party refuse or neglect to appoint a member of said board of survey, then the survey shall be made by the city engineer and the chief engineer of the fire department of Boston, and in case of disagreement they shall choose a third person.

If owner neglects to comply with requirements of notice, a careful survey shall be made.

SECT. 14. Whenever the report of any such survey, had as aforesaid, shall declare the structure to be unsafe, or dangerous to life or limb, the inspector of buildings shall, upon continued refusal or neglect of the owner or other interested party, cause such unsafe or dangerous structure to be taken down or otherwise made safe; and the costs and charges shall become a lien upon said estate, to be collected according to law, but without prejudice to the right which the owner thereof may have to recover the same from any lessee or other person liable for the expense of repairs: *provided*, that nothing herein contained shall authorize the recovery by the lessor of the lessee of the cost of any charges which may have been rendered necessary through the default or negligence of the lessor, or through want of repair or defects existing in said premises at the commencement of the lease.

If the report declares that the structure is unsafe, the inspector shall take it down.

Proviso.

SECT. 15. Upon the citation of any structure as unsafe or dangerous, by the inspector of buildings, if the owner or other interested party, being notified thereof in writing, shall refuse or neglect to cause the said structure to be taken down or otherwise made safe, said owner or other interested party shall forfeit to the use of said city, for every day's continuance of said refusal or neglect, a sum not less than ten nor more than fifty dollars; said sum to be recoverable as debts are now by law recoverable.

Penalty for neglecting to make structure safe.

SECT. 16. Any owner or other interested person aggrieved by any such order may, within three days after the service thereof upon him, apply for a jury to the superior court, if sitting in the county, or to any justice thereof in vacation. The court or justice shall issue a warrant for a jury to be empanelled by the sheriff within fourteen days from the date of the warrant, in the manner provided in chapter forty-three of the general statutes relating to highways.

Owner may apply for a jury.

SECT. 17. The jury may affirm, annul, or alter, such order, and the sheriff shall return the verdict to the next term of the court for acceptance, and, being accepted, it shall take effect as an original order.

Jury may affirm or annul the order of inspector.

SECT. 18. If the order is affirmed, costs shall be taxed against the applicant; if it is annulled, the applicant shall recover damages and costs against the city; if it is altered in part, the court may render such judgment as to costs as justice may require.

Taxation of costs.

SECT. 19. Nothing contained in the three preceding sections shall be construed to bar the right of the city to recover the penalty enacted in section thirteen, for the continuance of the refusal or neglect of the owner or owners, or other interested party or parties, to cause the structure in question to be taken down or otherwise made safe, unless the order is annulled by the jury; but, in default of such

Penalty may be enforced if the order is not annulled.

annulment, the city shall have the right to recover said penalty from the day of the original notice as enacted in said section.

Supreme judicial court may restrain by injunction erection of unsafe building.

SECT. 20. In case the building or structure cited as unsafe or dangerous shall be in process of erection, alteration, or repair, it shall be lawful for the supreme judicial court, or any justice thereof, either in term time or vacation, to issue forthwith an injunction restraining further progress in the work on said building until the facts of the case shall have been investigated and determined as herein provided.

Buildings unsafe in case of fire to come within the provisions of this act.

SECT. 21. If any building in the city of Boston shall appear, upon examination by the inspector of public buildings, to be specially dangerous to life or limb to members of the fire department or to citizens, in case of fire, by reason of insufficient thickness of walls, overloaded floors, defective construction, or other causes, such building shall be held and taken to be dangerous within the meaning of and subject to all the provisions of this act; and the inspector of buildings, besides proceeding as herein before provided, may affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of said building. Any person or persons removing such notice, so affixed, shall be liable to a penalty of not less than ten or more than fifty dollars for each and every offence.

Facilities for escape in case of fire to be provided in hotels, etc.

SECT. 22. It shall be the duty of the inspector of buildings to inspect all dwelling-houses now erected in the city of Boston, occupied by two or more families on any of the floors above the second floor from the level of the street, and any building now erected and occupied as a hotel, boarding or lodging house, factory, mill, or manufactory, or for offices or workshops, in which persons are employed in any of the stories above the second story; and if in his opinion such building is not provided with proper facilities for the escape of such persons in case of fire, he shall immediately serve a notice in writing upon the owners, agent, or other party or parties having an interest in said building, requiring such facilities to be provided without delay.

If facilities for escape are not provided, a survey may be had.

SECT. 23. If the person or persons so notified shall refuse or neglect to provide such facilities to the satisfaction of said inspector, within such time as the inspector may designate, then such a survey of the premises shall be had as provided by section thirteen of this act.

Report to specify the necessary alterations.

SECT. 24. If the report of such survey shall require the furnishings of the facilities as aforesaid, the requisite changes or alterations in the building shall be particularly specified; and the inspector of buildings shall, upon the continued neglect or refusal of the owner or owners, or other party or parties interested in said building, cause such changes or alterations to be made, in the manner and subject to all the provisions specified and contained in sections fourteen to nineteen, inclusive, of this act.

Officers may enter buildings.

SECT. 25. The officers of the department for the survey and inspection of buildings in the city of Boston, and all surveyors or other persons required to execute the provisions of this act, shall, as far as may be necessary for the performance of their respective duties, have the right to enter any building or premises in said city.

Repeal of 1871, 280, §§ 61-68.

SECT. 26. Sections fifty-one to fifty-eight, inclusive, of chapter two hundred and eighty of the acts of the year eighteen hundred and seventy-one, are hereby repealed.

SECT. 27. This act shall take effect upon its passage.

May 20, 1873.

[1871, 280; 1872, 371; 1876, 69, 176; 1882, 252; 1883, 155, 178, 251; 1884, 223.]

1873. — CHAPTER 303.

AN ACT TO UNITE THE CITY OF BOSTON AND THE TOWN OF BRIGHTON.

Be it enacted, etc. :

SECTION 1. All the territory now comprised within the limits of the town of Brighton, in the county of Middlesex, with the inhabitants and estates therein, is annexed to and made part of the city of Boston, in the county of Suffolk, and shall hereafter constitute a part of the county of Suffolk, subject to the same municipal regulations, obligations, and liabilities, and entitled to the same immunities in all respects, as the said city of Boston: *provided, however,* that, until constitutionally and legally changed, said territory shall continue to be, for the purpose of electing members of the house of representatives, part of the county of Middlesex, constituting a portion of the tenth representative district thereof; for the purpose of electing a senator, part of the third Middlesex senatorial district; for the purpose of electing a councillor, part of the third council district; and for the purpose of electing a representative in congress, said territory shall continue to be part of congressional district number eight, as the same is now constituted.

Brighton to be annexed to Boston, and to become part of Suffolk county.

Election of members of the legislature, councillor, and member of congress.

All the duties now required by law to be performed by the selectmen and town clerk of said town, or either of them, pertaining to the election of representatives in congress, state councillors, senators, and members of the house of representatives, shall in like manner devolve upon and be performed by the board of aldermen and city clerk of said city.

It shall be the duty of the ward officers of the ward, elected out of said territory as hereinafter provided, to make to the city clerk of said city, a return of all votes that may be cast therein, from time to time, for representatives in congress, state councillors, senators, members of the house of representatives, and for all other national, state, district, county, municipal, and ward officers.

SECT. 2. All the public property of said town shall be vested in, and is declared to be the property of, said city; and said city shall succeed to all the rights, claims, causes of action, rights to uncollected taxes, liens, uses, trusts, duties, privileges, and immunities, of said town. The town treasurer of the said town, on or before the second Monday of January, in the year eighteen hundred and seventy-four, under the direction of the selectmen of said town, who shall for this purpose, and for all other purposes necessary to carry into full effect the provisions of this act, continue to hold their offices, shall transfer, deliver, pay over, and account for, to the city treasurer of said city, all books, papers, moneys, and other property, in his possession as town treasurer of said town when this act takes effect; and the said city shall become liable for, and subject to, all the debts, obligations, duties, responsibilities, and liabilities, of said town. All actions and causes of action which may be pending, or which shall have accrued at the time this act takes effect, in behalf of or against said town, shall survive, and may be prosecuted to final judgment and execution in behalf of or against said city.

Public property of Brighton to be vested in the city of Boston.

Treasurer of Brighton to deliver money and other property to treasurer of Boston.

SECT. 3. The several courts within the county of Suffolk, except the municipal court for the southern district of the city of Boston, after this act takes effect, shall have the same jurisdiction over all causes of action and proceedings in civil causes, and over all matters in probate and insolvency, which shall have accrued within said territory hereby annexed, that said courts now have over like actions, proceedings, and matters, within the county of Suffolk: *provided,* that the several courts within the county of Middlesex shall

Jurisdiction of courts in Suffolk and Middlesex counties.

have and retain jurisdiction of all actions, proceedings, and matters, that shall have been rightfully commenced in said courts prior to the time when this act takes effect; and the supreme judicial court and the superior court within the county of Suffolk, after this act takes effect, shall have the same jurisdiction of all crimes, offences, and misdemeanors, that shall have been committed within the said territory, that the supreme judicial court and superior court within the county of Middlesex now have; but if, before this act takes effect, proceedings shall have been commenced in any of the courts within the county of Middlesex, for the prosecution of said crimes, offences, and misdemeanors, the said courts within the county of Middlesex shall have and retain jurisdiction of the same for the full, complete, the final, disposition thereof. All suits, actions, proceedings, complaints, and prosecutions, and all matters of probate and insolvency, which shall be pending within said territory, before any court or justice of the peace, when this act takes effect, shall be heard and determined as though this act had not passed.

Territory under jurisdiction of municipal court of Boston.

SECT. 4. Said territory shall be added to, and constitute a part of, the judicial district under the jurisdiction of the municipal court of the city of Boston. Said court shall have the same civil and criminal jurisdiction in said territory as it now has by law in its district as it now exists.

To constitute the nineteenth ward of Boston.

SECT. 5. The said territory shall constitute a ward of the city of Boston, to be called ward nineteen, and shall so remain until the alteration of the ward limits of the city of Boston, provided by law. And the ward so established shall be entitled to all the municipal and ward officers to which each of the other wards of said city is entitled, except as hereinafter provided.

Meeting for election of ward officers. Amended 1873, 3C3.

SECT. 6. If this act shall be accepted as hereinafter provided said territory shall, after the fourth day of November, in the year eighteen hundred and seventy-three, constitute a ward of said city, to be called ward nineteen, for all the purposes mentioned in this section and in section seven of this act. And the board of aldermen of said city shall, in due season, issue their warrant for a meeting of the legal voters of said ward, to be held on the second Monday of December, in the year eighteen hundred and seventy-three, at some place within said ward, which shall be designated in said warrant, there, first, to choose a warden, clerk, and five inspectors of elections for said ward, who shall hold their offices until the first Monday in January, in the year eighteen hundred and seventy-four, and until others shall be chosen and qualified in their stead; second, to give in their ballots for the several municipal and ward officers for the year eighteen hundred and seventy-four, for which they shall be entitled to vote by virtue of the provisions of this act.

School committee.

The voters of said ward shall designate, by their ballots cast at said meeting, the term of service for which each of the three school committee men, who shall be chosen in said ward, shall serve, so that one of the number so chosen shall serve for three years, one for two years, and one for one year. The board of aldermen of said city shall prepare lists of all the legal voters in said ward, to be used at said meeting, and shall do all other things which they are now by law required to do in respect to like elections in other wards of said city; and at said meeting, any legal voter of said ward may call the citizens to order, and preside until a warden is chosen and qualified. All ward officers whose election is provided for in the preceding section shall be qualified according to law. The citizens of said territory shall have the same right to vote for municipal officers, at the annual municipal election in said city, in the year eighteen hundred and

Citizens may vote for municipal officers of Boston in the year 1873.

seventy-three, as they would have had if said territory had formed part of said city for more than six months next before said election.

SECT. 7. After the present municipal year the board of aldermen of the city of Boston shall consist of twelve members, and in addition to the number of members of the common council otherwise to be provided for by law, the territory hereby annexed shall be entitled to elect two members to said council.

Members of the common council.

SECT. 8. The several police-officers, watchmen, fire-engineers, and firemen, in office in said town when this act shall take effect, shall thereafter continue in the discharge of their respective duties, in the same manner as if they were police-officers, watchmen, fire-engineers, and firemen, of the city of Boston, until others are appointed in their stead.

Police-officers and firemen to continue in discharge of their duties.

SECT. 9. All the interest which said town now has in the public property of the county of Middlesex is released and acquitted to said county of Middlesex. Such portion of the debts and obligations of the county of Middlesex existing when this act takes full effect, over and above the value of all the property belonging to said county as should proportionally and equitably be paid by the inhabitants and property owners of said territory by this act annexed to said city, shall be paid by said city to said county of Middlesex; and the supreme judicial court shall have jurisdiction in equity to determine the amount, if any, and enforce the payment of the same upon a suit in equity, in the name of said county, to be brought therefor within six months after this act goes into full operation, by the county commissioners of said county of Middlesex, if they deem such suit for the interest of said county; but, no such suit shall be instituted after said six months.

Interest in county property released to Middlesex. Boston to pay proportion of debts of Middlesex county.

Nothing contained in this act shall impair the obligation of contracts; and the property and inhabitants of said territory shall continue liable to the existing creditors of the county of Middlesex, in like manner as if this act had not been passed: *provided*, that if any person, by reason of his being an inhabitant of, or owning property in, said territory, shall be compelled to pay any part of an existing debt or obligation of the county of Middlesex, the amount of such payment shall constitute a debt to him from said county, as hereafter to be constituted, exclusive of said territory, and may be recovered in like manner as other debts against the county of Middlesex.

Obligation of contracts not to be impaired.

SECT. 10. This act shall not take full effect unless accepted by a majority of the legal voters of the city of Boston present and voting thereon by ballot, at meetings which shall be held in the several wards of said city, and also by a majority of the legal voters of the town of Brighton present and voting thereon, by ballot, at a meeting which shall be held in said town. All said meetings shall be held simultaneously on the first Tuesday of October of the present year, and upon notice thereof duly given at least seven days before the time of said meetings, and the polls shall be opened at nine o'clock in the forenoon of said day, and shall be closed at six o'clock in the afternoon. In case of the absence of any ward officer at any ward meeting in said city, held for the purpose aforesaid, or of any of the selectmen, or of the town clerk at any meeting in said town held for said purpose, a like officer may be chosen, *pro tempore*, by hand vote, and shall be duly qualified, and shall have all the powers, and be subject to all the duties, of the regular officer at said meetings. Said ballots shall be "yes" or "no" in answer to the question, "Shall an act passed by the legislature of this commonwealth in the year eighteen hundred and seventy-three, entitled 'an act to unite the city of Boston and the town of Brighton,' be accepted?" Such meeting in said town shall be called, notified, and warned, by the selectmen of

Subject to acceptance by voters of Boston and Brighton.

Meetings to be held on first Tuesday of October.

said town, in the same manner in which meetings for the election of town officers in said town are called, notified, and warned; and such meeting in the city of Boston shall be called, notified, and warned, by the board of aldermen of said city, in the same manner in which meetings for the election of municipal officers in said city are called, notified, and warned.

Result of ballot-
ing to be
recorded and
returned.

The ballots shall be assorted, counted, and declared, in the ward meetings in which they are given in the city of Boston, in open ward meeting, and shall be registered in the ward records; and in the town of Brighton, the ballots shall be assorted, counted, and declared, in open town meeting, and shall be recorded upon the records of the town. The clerk of each ward in the city of Boston shall make return of all ballots in favor of the acceptance of this act, and the number of ballots against said acceptance, to the board of aldermen of said city; said returns to be made within forty-eight hours of the close of the polls.

Returns to be
made to the sec-
retary of the
commonwealth.

It shall be the duty of the board of aldermen of said city to certify, as soon as may be, the number of ballots cast in said city, and the number of ballots cast in favor of the acceptance of this act, and the number of ballots cast against said acceptance, to the secretary of the commonwealth.

The selectmen and the town clerk of the town of Brighton, shall, as soon as may be, make a like return of the ballots cast in said town, and the number of ballots cast in favor of acceptance of this act, and the number of ballots cast against said acceptance, to the secretary of the commonwealth.

Secretary to pub-
lish certificate if
result is in favor
of acceptance.

And if it shall appear that a majority of the votes cast in said city, and a majority of the votes cast in said town, respectively, are in favor of the acceptance of this act, the said secretary shall immediately issue and publish his certificate declaring this act to have been duly accepted.

Part of act to
take effect on
its passage.

SECT. 11. So much of this act as authorizes and directs the submission of the question of acceptance of this act to the legal voters of said city and said town, respectively provided for in the tenth section of this act, shall take effect upon its passage.

When to take
effect if ac-
cepted.

SECT. 12. If this act shall be accepted, as herein provided, it shall take effect on the twelfth day of November, in the year eighteen hundred and seventy-three, so far as to authorize, legalize, and carry into effect, the acts and provisions of the sixth and seventh sections of this act; but for all other purposes, except as mentioned in section eleven of this act, it shall take effect on the first Monday of January, in the year eighteen hundred and seventy-four.

May 21, 1873.

[1873, 368.]

1873. — CHAPTER 314.

AN ACT TO UNITE THE CITY OF BOSTON AND THE TOWN OF WEST ROXBURY.

Be it enacted, etc.:

West Roxbury
annexed to Bos-
ton and to be-
come part of
Suffolk county.

SECTION 1. All the territory now comprised within the limits of the town of West Roxbury in the county of Norfolk, with the inhabitants and the estates therein, is annexed to and made part of the city of Boston in the county of Suffolk, and shall hereafter constitute a part of the county of Suffolk, subject to the same municipal regulations, obligations, and liabilities, and entitled to the same immunities, in all respects as the said city of Boston: *provided, however*, that until constitutionally and legally changed, said territory shall continue to be, for the

Proviso.

purpose of electing members of the house of representatives, part of the county of Norfolk, constituting the second representative district thereof; for the purpose of electing a senator, part of the first Norfolk senatorial district; for the purpose of electing a councillor, part of the third council district, and for the purpose of electing a representative in congress, part of congressional district number eight, as the same is now constituted.

Election of members of legislature, councillor, and member of congress.

All the duties now required by law to be performed by the selectmen and town clerk of said town, or either of them, pertaining to the election of representatives in congress, state councillors, senators, and members of the house of representatives, shall in like manner devolve upon and be performed by the board of aldermen and city clerk of said city.

Duties of selectmen, town clerk, and ward officers.

It shall be the duty of the ward officers of the ward erected out of said territory as hereinafter provided, to make to the city clerk of said city a return of all votes that may be cast therein, from time to time, for representatives in congress, state councillors, senators, members of the house of representatives, and for all other national, state, district, county, municipal, and ward officers.

SECT. 2. All the public property of said town shall be vested in, and is declared to be the property of, said city. And said city shall succeed to all the rights, claims, causes of action, rights to uncollected taxes, liens, uses, trusts, duties, privileges, and immunities, of said town. The town treasurer of said town, on or before the second Monday of January, in the year eighteen hundred and seventy-four, under the direction of the selectmen of said town, who shall for this purpose and for all other purposes necessary to carry into full effect the provisions of this act, continue to hold their offices, shall transfer, deliver, pay over, and account for, to the city treasurer of said city, all books, papers, moneys, and other property, in his possession as town treasurer of said town when this act takes effect; and said city shall become liable for and subject to all the debts, obligations, duties, responsibilities, and liabilities, of said town. All actions and causes of action which may be pending, or which shall have accrued at the time this act takes effect, in behalf of or against said town, shall survive, and may be prosecuted to final judgment and execution in behalf of or against said city.

Public property to be vested in Boston.

Treasurer of West Roxbury to turn over property, etc., to treasurer of Boston.

SECT. 3. The several courts within the county of Suffolk, except the municipal court for the southern district of the city of Boston, and the municipal court of the Dorchester district, after this act takes effect, shall have the same jurisdiction over all causes of action and proceedings in civil causes, and over all matters in probate and insolvency, which shall have accrued within said territory hereby annexed, that said courts now have over like actions, proceedings, and matters, within the county of Suffolk: *provided*, that the several courts within the county of Norfolk shall have and retain jurisdiction of all actions, proceedings, and matters, that shall have been rightfully commenced in said courts prior to the time when this act takes effect; and the supreme judicial court and the superior court within the county of Suffolk, after this act takes effect, shall have the same jurisdiction of all crimes, offences, and misdemeanors, that shall have been committed within the said territory, that the supreme judicial court and superior court within the county of Norfolk now have; but if, before this act takes effect, proceedings shall have been commenced in any of the courts within the county of Norfolk, for the prosecution of said crimes, offences, and misdemeanors, the said courts within the county of Norfolk shall have and retain jurisdiction of the same for the full, complete, and final, disposition thereof. All suits, actions, proceedings, complaints, and prosecutions, and all matters of probate

Jurisdiction of courts in Norfolk and Suffolk county.

and insolvency, which shall be pending within said territory before any court or justice of the peace, when this act takes effect, shall be heard and determined as though this act had not passed.

Territory to be part of district under jurisdiction of municipal court of Boston.

SECT. 4. Said territory shall be added to and constitute a part of the judicial district under the jurisdiction of the municipal court of the city of Boston. Said court shall have the same civil and criminal jurisdiction in said territory as it now has by law in its district as it now exists.

To constitute ward seventeen of Boston.

SECT. 5. The said territory shall constitute a ward of the city of Boston, to be called ward seventeen, and shall so remain until the alteration of the ward limits of the city of Boston, provided by law, and the ward so established shall be entitled to all the municipal and ward officers to which each of the other wards of said city is entitled, except as hereinafter provided.

Ward officers to be elected.

SECT. 6. If this act shall be accepted as hereinafter provided, said territory shall, after the fourth day of November in the year eighteen hundred and seventy-three, constitute a ward of said city, to be called ward seventeen, for all the purposes mentioned in this section and in section seven of this act. And the board of aldermen of said city shall, in due season, issue their warrant for a meeting of the legal voters of said ward, to be held on the second Monday of December, in the year eighteen hundred and seventy-three, at some place within said ward, which shall be designated in said warrant, there, first, to choose a warden, clerk, and five inspectors of elections, for said ward, who shall hold their offices until the first Monday of January in the year eighteen hundred and seventy-four, and until others shall be chosen and qualified in their stead; second, to give in their ballots for the several municipal and ward officers for the year eighteen hundred and seventy-four, for which they shall be entitled to vote by virtue of the provisions of this act.

School committee.

The voters of said ward shall designate, by their ballots cast at said meeting, the term of service for which each of the six school committee men who shall be chosen in said ward, shall serve, so that two of the number so chosen shall serve for three years, two for two years, and two for one year. The board of aldermen of said city shall prepare lists of all the legal voters in said ward, to be used at said meeting, and shall do all other things which they are now by law required to do in respect to like elections in other wards of said city; and at said meeting any legal voter of said ward may call the citizens to order, and preside until a warden is chosen and qualified. All ward officers whose election is provided for in the preceding section shall be qualified according to law. The citizens of said territory shall have the same right to vote for municipal officers, at the annual municipal election in said city, in the year eighteen hundred and seventy-three, as they would have had if said territory had formed part of said city for more than six months next before said election.

Citizens may vote for municipal officers of Boston in 1873.

Entitled to two members of the common council.

SECT. 7. After the present municipal year the board of aldermen of the city of Boston shall consist of twelve members, and, in addition to the number of members of the common council otherwise provided for by law, the territory hereby annexed shall be entitled to elect two members of said council.

Police-officers, watchmen, and firemen, to continue in discharge of their duties.

SECT. 8. The several police-officers, watchmen, and firemen, in office in said town when this act takes effect, shall thereafter continue in the discharge of their respective duties, in the same manner as if they were police-officers, watchmen, or firemen, of said city, until others are appointed in their stead.

Interest in county property released to Norfolk county.

SECT. 9. All the interest which said town now has in the public property of the county of Norfolk is released and acquitted to said county of Norfolk. Such portion of the debts and obligations of the

county of Norfolk, existing when this act takes full effect, over and above the value of all the property belonging to said county, as should proportionally and equitably be paid by the inhabitants and property owners of said territory by this act annexed to said city, shall be paid by said city to said county of Norfolk; and the supreme judicial court shall have jurisdiction in equity to determine the amount (if any), and enforce the payment of the same upon a suit in equity in the name of said county, to be brought therefor within six months after this act goes into full operation, by the county commissioners of said county of Norfolk, if they deem such suit for the interest of said county; but no such suit shall be instituted after said six months.

Boston to pay just proportion of debts of Norfolk county.

Nothing contained in this act shall impair the obligation of contracts; and the property and the inhabitants of said territory shall continue liable to the existing creditors of the county of Norfolk in like manner as if this act had not been passed: *provided*, that if any person, by reason of his being an inhabitant of or owning property in said territory, shall be compelled to pay any part of an existing debt or obligation of the county of Norfolk, the amount of such payment shall constitute a debt to him from said county as hereafter to be constituted, exclusive of said territory, and may be recovered in like manner as other debts against the county of Norfolk.

Obligation of contracts not to be impaired.

Proviso.

SECT. 10. This act shall not take full effect unless accepted by a majority of the legal voters of the city of Boston present and voting thereon by ballot, at meetings which shall be held in the several wards of said city, and also by a majority of the legal voters of the town of West Roxbury, present and voting thereon by ballot, at a meeting which shall be held in said town. All said meetings shall be held simultaneously on the seventh day of October of the present year, and upon notice thereof duly given at least seven days before the time of said meetings; and the polls shall be opened at nine o'clock in the forenoon of said day, and shall be closed at six o'clock in the afternoon. In case of the absence of any ward officer at any ward meeting in said city, held for the purpose aforesaid, or of any of the selectmen, or of the town-clerk, at any meeting in said town held for said purpose, a like officer may be chosen, *pro tempore*, by hand vote, and shall be duly qualified, and shall have all the powers, and be subject to all the duties, of the regular officer at said meetings. Said ballots shall be "yes" or "no," in answer to the question, "Shall an act passed by the legislature of this commonwealth, in the year eighteen hundred and seventy-three, entitled 'an act to unite the city of Boston and the town of West Roxbury,' be accepted?" Such meeting in said town shall be called, notified, and warned, by the selectmen of said town, in the same manner in which meetings for the election of town officers in said town are called, notified, and warned; and such meeting in the city of Boston shall be called, notified, and warned, by the board of aldermen of said city, in the same manner in which meetings for the election of municipal officers in said city are called, notified, and warned.

Subject to acceptance by a majority vote of West Roxbury and Boston.

The ballots shall be assorted, counted, and declared, in the ward meetings in which they are given in the city of Boston, in open ward meeting, and shall be registered in the ward records; and, in the town of West Roxbury, the ballots shall be assorted, counted, and declared, in open town meeting, and shall be recorded upon the records of the town. The clerk of each ward in the city of Boston shall make return of all ballots given in his ward, and the number of ballots in favor of the acceptance of this act, and the number of ballots against said acceptance, to the board of aldermen of said city;

Result of balloting to be recorded.

said returns to be made within forty-eight hours of the close of the polls.

Returns to be made to secretary of the commonwealth.

It shall be the duty of the board of aldermen of said city, to certify, as soon as may be, the number of ballots cast in said city, and the number of ballots cast in favor of the acceptance of this act, and the number of ballots cast against said acceptance, to the secretary of the commonwealth.

The selectmen and town-clerk of the town of West Roxbury shall, as soon as may be, make a like return of the ballots cast in said town, and the number of ballots cast in favor of acceptance of this act, and the number of ballots cast against said acceptance, to the secretary of the commonwealth.

Secretary to issue certificate if act is accepted.

And if it shall appear that a majority of the votes cast in said city, and a majority of the votes cast in said town, respectively, are in favor of the acceptance of this act, the said secretary shall immediately issue and publish his certificate, declaring this act to have been duly accepted.

Part of act to take effect upon its passage.

SECT. 11. So much of this act as authorizes and directs the submission of the question of acceptance of this act to the legal voters of said city and said town, respectively, provided for in the tenth section of this act, shall take effect upon its passage.

When to take effect, if accepted.

SECT. 12. If this act shall be accepted as herein provided, it shall take effect on the fifth day of November, in the year eighteen hundred and seventy-three, so far as to authorize, legalize, and carry into effect, the acts and provisions of the sixth and seventh sections of this act; but for all other purposes (except as mentioned in section eleven of this act), it shall take effect on the first Monday of January, in the year eighteen hundred and seventy-four.

Proceedings in case supreme judicial court declare balloting void.

SECT. 13. If any election or balloting upon the question of the acceptance of this act, by either said city or said town, shall, within two months thereafter, be declared void by the supreme judicial court, upon summary proceedings, which may be had in any county on the petition of fifty voters of either said city or said town, the question of accepting said act shall be again submitted to the legal voters of said city or town, and a meeting therefor shall, within thirty days thereafter, be called, held, and conducted, and the votes returned, and other proceedings had thereon, in like manner as herein before provided, but no election or balloting shall be held void for informality, in calling, holding, or conducting the election, or returning the votes, or otherwise, except upon proceedings instituted therefor and determined within sixty days thereafter, as aforesaid.

May 29, 1873.

[1873, 368.]

1873. — CHAPTER 338.

AN ACT TO AMEND "AN ACT TO PROVIDE FOR THE REGULATION AND INSPECTION OF BUILDINGS, THE MORE EFFECTUAL PREVENTION OF FIRE, AND THE BETTER PRESERVATION OF LIFE AND PROPERTY IN BOSTON."

Be it enacted, etc.:

Amendment to 1871, 280, § 2.

SECTION 1. The clause of section second, chapter two hundred and eighty, of the acts of eighteen hundred and seventy-one, defining a "tenement house," is amended in the fifth line thereof, by inserting the word "one" before the word "another."

SECT. 2. This act shall take effect upon its passage.

June 4, 1873.

[1871, 280.]

1873. — CHAPTER 350.

AN ACT TO PROVIDE FOR THE CONVEYANCE OF BERKELEY STREET TO THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. The commissioners on public lands are hereby authorized and directed to convey to the city of Boston that part of Berkeley street which is situated on the commonwealth's lands in the Back Bay, by deed in the same form as that executed by said commissioners, August twenty-third, eighteen hundred and sixty-six, and approved by the governor and council on the thirty-first day of August following, except that the words "may, so long as they shall deem it expedient," shall be omitted in the proviso, and the words "shall, until after ninety days' notice to the contrary," shall be inserted instead thereof.

Commissioners on public lands to convey, by deed, Berkeley street to the city of Boston.

SECT. 2. Chapter three hundred and thirty-eight of the acts of the year eighteen hundred and sixty-seven is repealed.

Repeal.

SECT. 3. This act shall take effect upon its acceptance by the board of aldermen of the city of Boston.

Subject to acceptance by aldermen.

June 9, 1873.

1873. — CHAPTER 368.

AN ACT TO AMEND THE SEVERAL ACTS OF THE PRESENT YEAR FOR THE ANNEXATION OF WEST ROXBURY, BROOKLINE, AND BRIGHTON, TO THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. Section six of chapter two hundred and ninety, section six of chapter three hundred and three, and section six of chapter three hundred and fourteen, of the acts of the year eighteen hundred and seventy-three, are amended, by striking from each of said sections, the words "second Monday of December," and inserting in place thereof the words "second Tuesday of December."

Amendments to 1873, 290, § 6, 1873, 303, § 6, 1873, 314, § 6.

SECT. 2. This act shall take effect upon its passage:

June 11, 1873.

[1873, 303, 314.]

1873. — CHAPTER 374.

AN ACT IN ADDITION TO "AN ACT RELATING TO THE FIRE DEPARTMENT OF THE CITY OF BOSTON."

Be it enacted, etc.:

SECTION 1. The officers and men of the fire department of the city of Boston, with the engines and apparatus thereof, shall have the right of way, while going to a fire upon any alarm thereof through any street, lane, or alley, in the said city, subject to such rules and regulations as the city council may prescribe. Whoever wilfully and maliciously obstructs or retards the passage of such engines and apparatus while so going to a fire, as aforesaid, shall be punished by imprisonment in the jail not exceeding three months, or by fine not exceeding fifty dollars.

Fire department to have right of way in streets in Boston. 104 Mass. 87.

SECT. 2. The first section of chapter two hundred and sixty-two of the acts of the year eighteen hundred and fifty is hereby amended by adding at the end of the proviso thereto, the words "unless the

Amendment to 1850, 302, § 1.

said city council shall, by ordinance, otherwise provide for their appointment."

SECT. 3. This act shall take effect upon its passage.

June 12, 1873.

[1850, 262.]

1874. — CHAPTER 60.

AN ACT TO ESTABLISH THE BOARD OF REGISTRARS OF VOTERS OF THE CITY OF BOSTON, AND TO REGULATE THE PREPARATION AND REVISION OF THE VOTING-LISTS IN SAID CITY.

Be it enacted, etc. :

Board of registrars of voters to be appointed by the mayor and aldermen.

SECTION 1. There shall be appointed by the mayor and aldermen of the city of Boston, as soon as may be after the passage of this act, three able and discreet persons, inhabitants of said city, to be styled the Board of Registrars of Voters. One of said registrars shall hold his office for the term of three years, one for the term of two years, and one for the term of one year, from the first day of April in the year eighteen hundred and seventy-four. And annually thereafter, in the month of February or March, the mayor and aldermen shall appoint one person, qualified as aforesaid to be a registrar of voters, for the term of three years from the first day of April in the year of his appointment. And in case of a vacancy in the office of registrar by reason of death, resignation, or removal, the mayor and aldermen shall fill such vacancy by the appointment of a person qualified as aforesaid, to hold office for the residue of the term.

To perform all duties respecting preparation of voting-lists heretofore required of mayor and aldermen.

SECT. 2. The registrars shall, in addition to the duties imposed upon them by this act, perform all and singular the duties devolved upon the mayor and aldermen or board of aldermen by any general or special laws which now are, or hereafter may be, in force, respecting the preparation, correction, revision, publication, and transmission to the ward officers, of the alphabetical lists of voters to be used at elections in said city; and all the powers so conferred, and all the duties and liabilities so imposed upon the mayor and aldermen, or board of aldermen, of said city in relation to the preparation, correction, revision, publication, and transmission, of said lists, are hereby conferred and imposed exclusively upon said registrars.

To be sworn.

SECT. 3. The registrars shall, before entering upon the duties of their office, take and subscribe an oath faithfully to perform the same. They shall receive such annual compensation as the city council may from time to time determine; but any reduction of compensation shall take effect upon such registrars only as shall be appointed after such reduction.

Compensation.

To appoint assistant registrars.

SECT. 4. The registrars shall annually, between the first day of May and the first day of October, appoint assistant-registrars of voters, inhabitants of said city, not exceeding two for each ward, who shall be sworn by one of the registrars to the faithful discharge of their duties, and shall hold office for the remainder of the municipal year, unless sooner discharged by the registrars. They shall receive such compensation as the city council may from time to time determine; but such compensation shall not be regulated by the number of names registered on any list of voters.

Compensation.

To prepare and publish lists of voters.

SECT. 5. The registrars, and the assistant-registrars under their direction, shall prepare, correct, revise, and publish, in accordance with this act, and with the laws of the commonwealth, the alphabetical lists of voters of each ward; and the collectors of taxes of said city shall make the return now required by law to be made to the

mayor and aldermen, to the board of registrars of voters; and all assessors and collectors of taxes of said city shall furnish any information in their possession, necessary to aid the registrars and assistant-registrars in the discharge of their respective duties.

SECT. 6. [The registrars shall, at least twenty days before the day of the annual state election, cause printed lists of the voters in each ward to be posted in three or more places in such ward, with notices thereon, stating the place and hours in which they or the assistant-registrars for such ward will hold sessions to correct and revise the lists. Such sessions shall be held in or near each ward, three or more hours daily, for at least twelve days within the twenty days immediately preceding the annual state election, and in addition, six evening sessions, of at least two hours length each, shall be held within said twenty days. If the assistant-registrars refuse to place the name of any person on the voting-list, he may appeal to the board of registrars of voters.]

Collectors of taxes to make return to board.

To post lists in each ward twenty days before state election. 1877, 235, § 3.

Substitute, 1880, 225, § 8.

SECT. 7. The registrars may make such rules and regulations, not contrary to law, for the government of the assistant-registrars, and for carrying out the provisions of this act, as they may deem necessary.

To make rules and regulations for government of assistants.

SECT. 8. The city council shall furnish office-room for the registrars, and shall, when requested by them, provide in or near each ward a suitable room for their sessions.

To be furnished with office-room.

SECT. 9. The registrars may remove any officer appointed by them, may fill vacancies, and may make temporary appointments in case of absence.

May remove any officer appointed by them.

SECT. 10. No person who holds an office by election or appointment under the government of the United States, of the commonwealth, or of the city of Boston, except justices of the peace and officers of the militia shall be appointed registrar or assistant-registrar; and the appointment or election of a registrar or assistant-registrar to any such office, and his acceptance thereof, shall be deemed to be a resignation of his office of registrar or assistant-registrar.

No person holding office under city, state, or nation, to be appointed registrar or assistant.

SECT. 11. Whoever gives a false name or a false answer to any registrar or assistant-registrar concerning any matter relating to the registration of voters, or to the right of any person to vote, shall incur the same penalty which is provided by law for giving a false name or false answer to the selectmen of towns when in session to correct the list of voters.

Penalty for giving false name or false answer to registrars.

SECT. 12. Any registrar or assistant-registrar who wilfully neglects or refuses to perform the duties of his office shall, for each offence, forfeit a sum not exceeding two hundred dollars.

Penalty for neglect of official duty.

SECT. 13. This act shall take effect when accepted by the city council of the city of Boston.¹

Subject to acceptance by city council.

March 10, 1874.

[1878, 248; 1879, 163; 1880, 225; 1881, 221.]

1874. — CHAPTER 61.

AN ACT TO INCORPORATE THE BOSTON PROTECTIVE DEPARTMENT.

Be it enacted, etc.:

SECTION 1. George A. Curtis, Joseph F. Hovey, Joseph W. Kinsley, William B. Sears, Henry B. White, George F. Osborne, C. E. Guild, Charles E. Lane, John W. Porter, and all other officers for the time being of any incorporated company or association, and

Corporators.

¹ Accepted by the city council, April 17, 1874.

Real and personal estate.

any agent doing the business of fire insurance in the city of Boston, who may become associated with them and their successors, are hereby created a body corporate by the name of the "Boston Protective Department," with power to sue and be sued, and may hold by purchase, devise, or otherwise, real and personal property for the use of said corporation, to an amount not exceeding one hundred thousand dollars, and may sell and convey any part thereof, subject, however, to the laws of this state.

May maintain a corps of men to discover and prevent fires, whose appointment shall be subject to approval of fire commissioners.

SECT. 2. Said corporation shall have power to provide and maintain a corps of men, with proper officers, whose duty it shall be, so far as practicable, to discover and prevent fires; and whose appointment shall be subject to the approval of the board of fire commissioners; shall provide suitable apparatus to save and preserve life and property at or after a fire, and power is hereby granted to such corps and its officers to enter any building on fire, or which in their judgment is immediately exposed to, or in danger of taking fire from other burning buildings, to protect and save life and property therein, and to remove such property or any part thereof at or immediately after a fire: *provided, however*, that nothing in this act shall be so construed as to lessen in any way the authority of the officers or members of the Boston fire department, or to warrant or justify any interference with them in the performance of their duties, nor shall it in any way justify the owner of any building or personal property in the abandonment of his property.

Proviso.

Right of way through the streets while going to a fire.

SECT. 3. The officers and men of the Boston protective department, with their teams and apparatus, shall have the right of way, while going to a fire, through any street, lane, or alley, in the city of Boston, subject to such rules and regulations as the city council and the fire commissioners may prescribe, and subject also to the rights of the Boston fire department, and any violation of the street rights of the Boston protective department shall be punished in the same manner as is provided for the punishment of violations of the rights of the Boston fire department in chapter three hundred and seventy-four of the acts of the year eighteen hundred and seventy-three.

Annual meetings of the corporation.

SECT. 4. In the month of March, eighteen hundred and seventy-four, and in the month of March of every year thereafter, there shall be held a meeting of the corporation hereby created, of which ten days' previous notice shall be inserted in at least two newspapers published in the city of Boston, at which meeting each incorporated insurance company or association doing business in the city of Boston, whether its officers or its agents be members of this corporation or not, shall have the right to be represented by one of such officers or agent, and each organization represented at such meeting shall be entitled to one vote.

Insurance companies to have right to be represented.

A majority of the whole number so represented shall have power to decide upon the question of sustaining the corps herein before mentioned, and of fixing the maximum amount of expenses which shall be incurred therefor during the fiscal year next to ensue; and the whole of such amount, or so much thereof as may be necessary, may be assessed upon the organizations belonging to this corporation, and upon all other organizations and agencies, as herein before mentioned, in proportion to the several amounts of premiums returned as received by each, as hereinafter provided, and such assessment shall be collectable by this corporation in any court of law in the state of Massachusetts.

Payment of expenses provided for.

SECT. 5. To provide for the payment of persons employed, and to maintain the apparatus for saving life and property contemplated, this corporation is empowered to require a statement to be furnished semi-annually by all corporations, associations, underwriters, agents,

or persons, of the aggregate amount of premiums received for insuring property in the city of Boston, for and during the six months next preceding the thirtieth day of June and the thirty-first day of December of each year, which statement shall be sworn to by the president or secretary of the corporation or association, or by the agent or person so acting and effecting such insurance in said city, and shall be handed to the treasurer of this corporation, within thirty days after the time to which such returns are to be made.

SECT. 6. It shall be lawful for the treasurer or other appointed officer of this corporation, within ten days after the first day of January and the first day of July, in each year, by written or printed demand, signed by him, to require from every corporation, association, underwriter, agent, or person, engaged in the business of fire insurance in the city of Boston, the statement provided for in the last preceding section of this act; and every officer of such corporation or association, and every individual, agent, or underwriter, who shall, for thirty days after such demand, neglect to render the account, shall forfeit fifty dollars for the use of the corporation created by this act; and he shall also forfeit, for their use, five dollars in addition for every day he shall so neglect after the expiration of the said thirty days; and such additional penalty may be computed and recovered up to the time of the trial of any suit for the recovery thereof, which penalty may be sued for and recovered, with costs of suit, in any court of record within this state.

Treasurer may require statement to be made by insurance companies.

Penalty for neglect to comply.

SECT. 7. This act shall take effect upon its passage.

March 10, 1874.

[1881, 22.]

1874. — CHAPTER 89.

AN ACT IN RELATION TO THE ANNUAL REPORT OF THE COMMISSIONERS OF CEDAR GROVE CEMETERY.

Be it enacted, etc.:

SECTION 1. Section seven of chapter sixty-eight of the acts of the year eighteen hundred and sixty-eight is so amended that the commissioners of the cemetery referred to in said act, now known as Cedar Grove cemetery, shall make the annual report required by said section, in the month of May instead of February in each year.

Annual report to be made in May instead of February.

SECT. 2. This act shall take effect upon its passage.

March 24, 1874.

[1868, 68.]

1874. — CHAPTER 114.

AN ACT IN ADDITION TO "AN ACT TO AUTHORIZE THE CITY OF BOSTON TO LAY OUT A PUBLIC STREET OR WAY ACROSS SOUTH BAY."

Be it enacted, etc.:

SECTION 1. The city of Boston is hereby authorized to lay out the way and construct the bridge authorized by the seventy-eighth chapter of the acts of the year eighteen hundred and sixty-nine, at any time within two years from the date of the passage of this act: *provided*, that the way hereby authorized, shall not be constructed across any railroad at grade.

May lay out way and construct bridge across South bay.

Proviso.

SECT. 2. Said city may, with the consent and approval of the board of harbor commissioners, construct said way solid, between the

May construct solid way, with consent of har-

bor commis-
sioners.

termini set forth in said act, within such limits, and upon such terms and conditions, as said board of harbor commissioners shall determine and prescribe.

SECT. 3. This act shall take effect upon its passage.

March 28, 1874.

[1869, 78, 447.]

1874. — CHAPTER 139.

AN ACT CONCERNING MALDEN BRIDGE.

Be it enacted, etc.:

Malden bridge
to be supported
by city of Bos-
ton.

SECTION 1. Chapter ninety-nine of the acts of the year eighteen hundred and fifty-nine, and chapter two hundred and sixty-six of the acts of the year eighteen hundred and sixty-nine, are repealed, and Malden bridge shall hereafter be supported by and be under the care and superintendence of the city of Boston.

SECT. 2. This act shall take effect upon its passage.

April 1, 1874.

1874. — CHAPTER 167.

AN ACT IN RELATION TO THE BOSTON NORMAL SCHOOL IN THE CITY OF BOSTON.¹

Be it enacted, etc.:

Establishment
of Boston
normal school
ratified and
made valid.

SECTION 1. The action of the city council and of the school committee of the city of Boston, in establishing and maintaining the school, called the Boston normal school, is ratified, confirmed, and made valid, to the same extent as if, prior to the establishment thereof, and during its continuance, and at the present time, the said city council, and said school committee, or either of them, had authority to establish and maintain the same; and the said school committee shall have the same power to maintain and continue the said normal school as they have now to maintain and continue the other public schools of said city.

SECT. 2. This act shall take effect upon its passage.

April 15, 1874.

[1882, 186.]

1874. — CHAPTER 175.

AN ACT TO AUTHORIZE A NEW BRIDGE BETWEEN BOSTON AND CAMBRIDGE.

Be it enacted, etc.:

May build
bridge between
Boston and
Cambridge.

SECTION 1. The cities of Boston and Cambridge are authorized to lay out, make, and maintain, a new avenue from Brattle square in said Cambridge across Charles river to some point on Market street in ward nineteen in said Boston, and to build and maintain a bridge across said river, which shall be a part of said avenue.

Each city may
take land within
its own limits.

SECT. 2. Each of said cities may, within its own limits, take land for said avenue in the same manner as lands are taken therein for laying out highways, with the same right to all parties to appeal to a jury, and betterments may be assessed in each city as in the case of other ways.

¹See city council minutes, 1874, p. 213.

SECT. 3. Said bridge shall have a draw with a clear opening of thirty-eight feet for the free passage of vessels, and the authority hereby given to build said bridge is given subject to the provisions of chapter one hundred and forty-nine of the acts of the year one thousand eight hundred and sixty-six.

Draw to have a clear opening of thirty-eight feet.
P.S. 19.

SECT. 4. Each of said cities shall bear the expense of laying out, making, and maintaining, that part of said avenue on its own side of the channel, but the expense of making, maintaining, and operating, said draw shall be borne equally by said cities. And the care and management of said bridge and draw shall be vested in the board of commissioners provided for in section six of chapter three hundred and two of the acts of eighteen hundred and seventy.

Expense of making avenue and maintaining draw.

SECT. 5. This act shall take effect upon its acceptance by the city councils of Boston and Cambridge.

April 15, 1874.

1874. — CHAPTER 196.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO IMPROVE STONY BROOK AND ITS TRIBUTARIES.

Be it enacted, etc. :

SECTION 1. The city of Boston, for the purpose of surface drainage, may remove obstructions in or over Stony brook and the tributaries thereof, so far as the said brook and tributaries flow within the limits of said city; may divert the water, and alter the course and deepen the channel thereof; and, the more effectually to make said improvements, may take or purchase land, not exceeding four rods in width, on either side of the present channel of said brook and of its tributaries, or of any channel into which said waters may be diverted within the limits of said city. Said city shall, within sixty days from the time they shall take any of said lands, file, in the office of the registry of deeds for the county of Suffolk, a description of the land so taken, as certain as is required in a common conveyance of land, and a statement that the same are taken in pursuance of the provisions of this act; which statement shall be signed by the mayor of said city; and the title to all land so taken shall vest in said city.

Boston may remove obstructions in Stony brook.

May take land on either side of channel.

To file in registry of deeds a description of land taken.
120 Mass. 596.

SECT. 2. Any person injured in his property by any of the acts done by said city, under the first section of this act, shall, upon application to the board of aldermen of said city, have compensation therefor, the amount thereof to be determined by said board of aldermen. And said board of aldermen shall finally adjudicate upon the question of damages, within thirty days after the filing of said application, unless the parties agree in writing to extend the time. In case damages are awarded, payment shall be made forthwith by said city.

Damages to be awarded by board of aldermen.

SECT. 3. If the applicant is aggrieved, either by the estimate of his damages, or by a refusal or neglect within thirty days to estimate the same, he may, within three months from the expiration of said thirty days, or of the extended time as provided in the second section, apply for a jury and have his damages assessed in the manner provided when land is taken in laying out highways. If the damages are increased by the jury the damages and costs shall be paid by the city, otherwise the costs arising on such application shall be paid by the applicant.

If applicant for damages is aggrieved he may apply for a jury.

SECT. 4. All the expenses of improving said brook and its tributaries, authorized by this act, including all damages paid under the preceding sections, shall be paid by said city. But the board of aldermen of said city may assess upon the estates bordering upon

Damages to be paid by city.

Estates may be assessed for betterments.

said brook, as the same now is or shall be after said improvement, and its tributaries, the expenses incurred by them, in proportion to the benefit which they may adjudge said estates to have received by said improvements.

Assessments to constitute a lien on the real estate.

SECT. 5. All assessments made under the fourth section of this act shall constitute a lien on the real estate assessed, for one year after they are laid, and may, together with all incidental costs and expenses, be levied by sale thereof (except as provided in the sixth section of this act), if the assessment is not paid within three months after a written demand of payment, made either upon the person assessed, or upon any person then occupying the estate, or posted upon the premises; such sale to be conducted in like manner as sales for the non-payment of taxes.

Assessments may be apportioned if owner desires.

SECT. 6. If the owner of any estate, assessed as provided in the fifth section, desires to have the amount of said assessment apportioned, he shall give notice thereof in writing to the board of aldermen, at any time before or within twenty days after a demand is made upon him for the payment thereof; and said board of aldermen shall thereupon apportion the said amount into three equal parts, which apportionment shall be certified to the assessors, and the assessors shall add one of said equal parts to the annual tax of said estate each year for the three years next ensuing.

Person aggrieved may petition for a jury.

SECT. 7. Any person aggrieved by the assessment made under the fourth section of this act may, within three months after a written demand for payment, as provided in the fifth section of this act, petition for a jury in the same manner as appeals are made when land is taken in laying out highways. If the assessment is not confirmed by the jury the costs of the application shall be paid by the city, otherwise the same shall be paid by the applicant.

Brook in the city to be under control of the city.

SECT. 8. When the improvements authorized by this act shall have been completed, that part of Stony brook and its tributaries flowing within said city shall be and remain under the control of said city.

Streams flowing into brook not to be restrained.
Boston Belting Company.

SECT. 9. This act shall not be construed to authorize the said city to restrain or dam up any of the streams now flowing into Stony brook or into the tributaries thereof. Neither shall it authorize any interference with the estate owned by the Boston Belting Company or its rights in said brook as to the use and purity of its waters.

SECT. 10. This act shall take effect upon its passage.

April 24, 1874.

[1868, 228; 1870, 220; 1871, 840.]

1874. — CHAPTER 220.

AN ACT TO ANNEX A PORTION OF THE TOWN OF BROOKLINE TO THE CITY OF BOSTON.

Be it enacted, etc.:

Portion of Brookline annexed to Boston.

SECTION 1. All the territory now comprised within the limits of the town of Brookline in the county of Norfolk, with the inhabitants and estates therein situated, northerly of the southerly line of Brighton avenue, is hereby annexed to, and made a part of, the city of Boston, in the county of Suffolk, and shall hereafter constitute a part of the county of Suffolk, subject to the same municipal regulations, obligations, and liabilities, and entitled to the same immunities in all respects, as the said city of Boston: *provided, however*, that, until constitutionally and legally changed, said territory, including any part of the city of Boston which has been set off from Brookline since the last census,

Proviso.

shall continue to be, for the purpose of electing members of the house of representatives, part of the county of Norfolk, constituting part of the fifteenth representative district thereof; for the purpose of electing a senator, part of the first Norfolk senatorial district; for the purpose of electing a councillor, part of the third council district; and for the purpose of electing a representative in congress, said territory shall continue to be part of congressional district number eight, as the same are now constituted.

All the duties now required by law to be performed by the selectmen and town clerk of the town of Brookline, or either of them, pertaining to the votes cast by the voters residing upon said territory for representatives in congress, state councillors, senators, and members of the house of representatives, shall in like manner devolve upon and be performed by the board of aldermen and the city clerk of the city of Boston; and the said city clerk shall make returns and meet with the town clerk of the town of Brookline, for the purpose of ascertaining the result of the election of representatives for said fifteenth representative district and making certificates of the same, at noon on the day following said election, at the town clerk's office in said Brookline.

Duties required of selectmen and clerk of Brookline to devolve upon aldermen and clerk of Boston.

SECT. 2. The inhabitants of the said territory shall be holden to pay all arrears of taxes which have been legally assessed upon them by the town of Brookline, and all taxes heretofore assessed and not collected shall be collected and paid to the treasurer of the town of Brookline in the same manner as if this act had not been passed.

Inhabitants to pay arrears of taxes.

SECT. 3. The several courts within the county of Suffolk, except the municipal court for the southern district of the city of Boston, the municipal court for the Dorchester district of the city of Boston, and the municipal court for the Charlestown district of the city of Boston, after this act takes effect, shall have the same jurisdiction over all causes of action and proceedings in civil causes, and over all matters in probate and insolvency, which shall have accrued within said territory hereby annexed, that said courts now have over like actions, proceedings and matters within the county of Suffolk: *provided, however*, that the several courts within the county of Norfolk shall have and retain jurisdiction of all actions, proceedings, and matters, that may be rightfully commenced in said courts prior to the time when this act takes effect; and the supreme judicial court, and the superior court, within the county of Suffolk, after this act takes effect, shall have the same jurisdiction of all crimes, offences, and misdemeanors, that shall have been committed within the said territory, that the supreme judicial court and superior court within the county of Norfolk now have; but if, before this act takes effect, proceedings are commenced in any of the courts within the county of Norfolk for the prosecution of said crimes, offences, and misdemeanors, the said courts within the county of Norfolk shall have and retain jurisdiction of the same for the full, complete, and final, disposition thereof. All suits, actions, proceedings, complaints, and prosecutions, and all matters of probate and insolvency, pending within said territory before any court or any justice of the peace when this act takes effect, shall be heard and determined as though this act had not been passed.

Jurisdiction of courts.

Proviso.

SECT. 4. Said territory shall be added to and constitute a part of the judicial district under the jurisdiction of the municipal court of the Brighton district. Said court shall have the same civil and criminal jurisdiction in said territory as it now has by law in its district as it now exists.

Judicial district of Brighton.

SECT. 5. The said territory shall constitute a part of ward nineteen in the city of Boston, and shall so remain until the alteration of the ward limits of the city of Boston provided by law.

Ward nineteen in Boston.

Obligations of contracts not to be impaired.

Proviso.

Brookline not to be deprived of rights of drainage.

SECT. 6. Nothing contained in this act shall impair the obligations of contracts; and the property and inhabitants of said territory shall continue liable to the existing creditors of the county of Norfolk, in like manner as if this act had not been passed: *provided*, that if any person by reason of his being an inhabitant of, or owning property in, said territory shall be compelled to pay any part of an existing debt or obligation of the county of Norfolk, the amount of such payment shall constitute a debt to him from said county, as hereafter to be constituted, exclusive of said territory, and may be recovered in like manner as other debts against the county of Norfolk.

SECT. 7. This act shall not be construed to divest or deprive the town of Brookline of any legal rights of drainage which it now possesses nor of any powers or authority which it now enjoys under chapter seventy-one of the acts of the year eighteen hundred and sixty-seven, entitled "An act concerning drains and sewers in the town of Brookline," with respect to any of the territory herein before described.

SECT. 8. This act shall take effect upon its passage.

May 8, 1874.

1874. — CHAPTER 259.

AN ACT IN RELATION TO THE CHARLES RIVER AND WARREN BRIDGES.¹

Be it enacted, etc.:

Care of bridges vested in Boston.

SECTION 1. The care, management, and maintenance, of the Charles river and Warren bridges is hereby vested in the city of Boston.

Bridges to be maintained as highways by Boston.

SECT. 2. The city of Boston shall maintain the said bridges as public highways at its own expense, and in accordance with such ordinances as the city council of said city may establish.

Middlesex Railroad Company not to be released from obligation to make repairs, etc.

SECT. 3. Nothing in this act shall release the Middlesex Railroad Company from any legal obligation now existing, to maintain and keep in repair any portion of said bridges, or from any liability for loss or injury that any person may sustain by reason of any carelessness, neglect, or misconduct, of its agents or servants in the construction, management, or use, of its tracks on said bridges.

Repeal.

SECT. 4. Chapter three hundred and three of the acts of the year eighteen hundred and seventy, and all other acts and parts of acts inconsistent herewith are repealed.

SECT. 5. This act shall take effect upon its passage.

May 22, 1874.

[1880, 125; 1882, 138; 1883, 140; 1884, 327.]

1874. — CHAPTER 277.

AN ACT TO CHANGE THE BOUNDARY LINE BETWEEN BOSTON AND NEWTON.

Be it enacted, etc.:

Boundary line changed between Boston and Newton.

SECTION 1. The boundary line between the cities of Boston and Newton is hereby changed and established as follows: beginning at the stone monument at the intersection of the present boundary line between Boston and Newton with the present boundary line between Boston and Brookline, thence running south-westwardly on said last-mentioned boundary line as continued between Brookline and Newton, seven hundred and thirty-five feet, to a stone boundary post; thence

¹ See Statutes and Ordinances (ed. 1876), pp. 75, 76.

turning and running north-westwardly seven hundred and ninety-four feet, to a stone bound on the westerly line of Beacon street; thence north-westwardly on said last-mentioned line continued, two hundred and twenty-seven and six-tenths feet to a stone tangent post; thence north-westwardly on a curved line of nine hundred and eighty feet radius, three hundred and thirty-five feet and four-tenths of a foot, to a stone tangent post; thence north-westwardly two hundred and forty-three feet and seven-tenths of a foot, to a stone tangent post; thence on a curved line of eight hundred and sixty-two feet radius, six hundred and twenty-nine feet and six-tenths of a foot, to a stone tangent post; thence westwardly twelve hundred and twenty-one feet, to a stone bound; all the above-described lines, except the first two, being the south-westerly and southerly boundary lines of Beacon street; thence turning and running northwardly and crossing Beacon street, five hundred and fifty-three feet to a stone bound; thence northwardly one hundred and sixty-four feet and eight-tenths of a foot, to a stone bound; thence northwardly two hundred and sixty-three feet and four-tenths of a foot, to a stone bound; thence northwardly one hundred and seventy-four feet and five-tenths of a foot, to a stone bound; thence northwardly three hundred and ninety-six feet and seven-tenths of a foot, to a stone bound; thence northwardly two hundred and fifty-three feet, to a stone bound; thence north-eastwardly one hundred and fifty-seven feet and eight-tenths of a foot, to a stone bound; thence eastwardly one hundred and five feet, to a stone bound; thence eastwardly sixty-six and one-half feet, to a stone bound; thence eastwardly five hundred and thirty-seven feet, to a stone bound; thence northwardly one hundred and sixty-six feet, to a stone bound on the southerly line of Ward street in said Newton; the eleven last-described lines being the division lines between land of the city of Boston, the land of Amos A. Lawrence, and land late of Daniel Knowles; thence eastwardly on said southerly line of Ward street, thirty-four feet and two-tenths of a foot, to a stone bound; and thence eastwardly on the same, seventy-nine feet to a stone post on the boundary line between Boston and Newton. The new boundary line is laid down, in red lines, on a plan thereof, dated March, eighteen hundred and seventy-four, deposited in the office of the secretary of the commonwealth.

SECT. 2. All petitions now pending before the county commissioners of Middlesex county for laying out highways situated entirely within the territory hereby transferred from Newton to Boston, shall be heard and adjudicated by the street commissioners of the city of Boston in the same manner as if said petitions had been originally presented to said street commissioners.

Petitions for laying out highways to be heard by street commissioners of Boston.

SECT. 3. This act shall take effect upon its passage.

May 29, 1874.

1874. — CHAPTER 286.

AN ACT RELATING TO PARKER STREET, KNOWN AS THE CROSS DAM, IN THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. The commissioners of public lands shall have full power and authority, with the approval of the governor and council, to act for and in behalf of the commonwealth in causing that portion of Parker street, in the city of Boston, which belongs to the commonwealth, or any part thereof, to be placed in a condition safe and convenient for the public travel, and in repairing and widening and grading said portion of that street, or any part thereof, as they may

Parker street, in Boston, to be repaired.

Street may be conveyed to the city of Boston.

deem the interest of the public may require. And said commissioners shall have full power and authority to convey the interest of the commonwealth in said street, or any part thereof, to the city of Boston, upon such terms as may be agreed upon between them and said city, or the said commissioners may discontinue portions of the said street as contemplated by the plan accompanying the tripartite indenture¹ of December thirty-first, eighteen hundred and sixty-four, between the commonwealth, the Boston Water Power Company, and the city of Boston, and convey the same to abutting parties, on such terms as the governor and council shall approve, and generally to act for the commonwealth in all matters pertaining to said interests therein. The expense of said improvement shall be paid from the moiety of the proceeds of sales of lands in the Back bay applicable to filling and improvements, and the same is hereby appropriated.

Expense of improvement.

SECT. 2. This act shall take effect upon its passage.

May 29, 1874.

1874. — CHAPTER 343.

AN ACT TO AMEND THE CHARTER OF THE CHARITABLE ASSOCIATION OF THE BOSTON FIRE DEPARTMENT.

Be it enacted, etc. :

Charter amended.

SECTION 1. The act to incorporate the Charitable Association of the Boston Fire Department, approved on the thirteenth day of February, eighteen hundred and thirty, and the act in addition thereto, approved on the seventeenth day of April, eighteen hundred and thirty-eight, are amended, so as to include within the parties entitled to membership of said corporation, and to the benefits thereof, the members of the Boston protective department.

Fee for membership fixed at \$5.

SECT. 2. The first section of the said act of eighteen hundred and thirty-eight is amended, so that the payment for membership may be fixed at five dollars instead of one.

SECT. 3. This act shall take effect upon its passage.

June 18, 1874.

[1829, 44; 1838, 181.]

1874. — CHAPTER 374.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO APPROPRIATE MONEY FOR TEMPORARY RELIEF OF THE POOR.

Be it enacted, etc. :

Temporary relief for the poor of Boston.

SECTION 1. The city council of the city of Boston may appropriate out of any funds in its treasury not otherwise appropriated, or raise by taxation and appropriate, such amounts as they may by vote determine for temporary aid to the poor; the same to be expended in such manner as they may by vote determine; but the amount thus appropriated in any one year shall not exceed one fifteen-hundredth of one per cent. of the valuation of said city for the current year; and the city council shall keep a separate account of all money appropriated under this act.

SECT. 2. This act shall take effect upon its passage.

June 27, 1874.

¹ See Back Bay Agreements, p. 78.

1874. — CHAPTER 387.

AN ACT IN ADDITION TO "AN ACT TO AUTHORIZE THE CITY OF BOSTON TO LAY OUT A PUBLIC STREET OR WAY ACROSS SOUTH BAY."

Be it enacted, etc. :

SECTION 1. If any difference of opinion shall arise between the city of Boston and the New York and New England Railroad Company with reference to the grade at which the way authorized by the seventy-eighth chapter of the acts of eighteen hundred and sixty-nine, and by the one hundred and fourteenth chapter of the acts of eighteen hundred and seventy-four, shall cross the tracks of said railroad, or as to the raising or lowering the said way, or the tracks of said railroad, or as to the relative grade of said way and said railroad, either party may apply to the board of railroad commissioners, and thereupon said board shall as soon as possible fix the grade of said railroad at the place where said way shall cross it so as to enable the said city to lay out said way under said railroad at no lower grade, or to lay out said way over said railroad at no higher grade, than the public interests require.

Grade of street across south bay at crossing with New York and New England railroad.

SECT. 2. The said railroad company shall, at its own expense, change the grade of said railroad to conform to the grade fixed by said board of railroad commissioners, within one year after the fixing of said grade; and the said city shall build at its own expense an iron bridge for said crossing, to the satisfaction of said board, and of sufficient width for a double track; and the expense of maintaining and repairing the abutments of said bridge shall thereafter be borne by said city.

Railroad to change grade as directed by commissioners.

SECT. 3. The supreme judicial court shall have jurisdiction in equity to compel compliance with all orders, decrees, and judgments, of the said board of railroad commissioners made under the authority of this act.

Supreme judicial court to have jurisdiction in equity.

SECT. 4. Nothing in this act shall prevent the said city and the said railroad company from entering into an agreement with reference to the grade of said railroad and of said way: *provided*, said way shall not cross said railroad at grade.

City and railroad may enter into an agreement, provided, etc.

June 30, 1874.

[1869, 78, 447; 1874, 114.]

1874. — CHAPTER 400.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO OBTAIN A FURTHER SUPPLY OF PURE WATER AND ESTABLISH AND MAINTAIN RESERVOIRS FOR THE STORAGE OF WATER IN THE MYSTIC VALLEY.

Be it enacted, etc. :

SECTION 1. The city of Boston is hereby authorized, by and through the agency of the Boston water board, or by and through any other agency which shall be established therefor, to take, hold, and convey to, into, and through, said city any or all the water belonging to the water-shed or valley of the Mystic, so called, not hitherto granted, or which flows or drains, directly or indirectly, into Mystic pond or Mystic river, and from time to time to establish and maintain reservoirs for the storage of any or all such waters, or any or all waters flowing into or lying in the Mystic pond or river which have not been otherwise granted, and for that purpose said city may take and hold, by purchase or otherwise, any water-rights, lands, and real estate, necessary for building and maintaining said reservoirs, or for the erection

City of Boston may take water from the valley of the Mystic, etc.

Proviso.

of dams, buildings, water-courses, aqueducts, machinery, or appliances, with their accessories, for conducting, purifying, storing, elevating, and distributing, water; and may also take and hold any land on the margin of said sources of supply, not exceeding five rods in width from the high-water mark of said river, pond, or storage-reservoirs, so far as may be necessary for the storage, preservation, and purity, of the same, for the purpose of furnishing a supply of pure water to the city of Boston: *provided*, that the city of Somerville, and the towns of Woburn, Stoneham, Winchester, Arlington, Medford, and Malden, or either of them, having previously obtained authority to supply themselves with pure water, may take the waters of any natural basin or artificial reservoir belonging to the city of Boston, within the limits of said municipalities, in the manner and upon the terms to be agreed upon with said city of Boston; and, in case of a failure to agree upon such manner and terms, either party may petition the supreme judicial court for the appointment of a commission of three suitable persons, who shall hear the parties, and determine the manner of taking said waters, and the compensation to be paid to the said city of Boston therefor, upon the basis of a proper and just apportionment of the expense of rendering the same available; and *provided, further*, that the said city of Boston shall not raise the waters of Horn pond more than six feet above the present mean high-water level, nor draw the same below the present level of low-water; neither shall any lands south of Cross street, in the town of Winchester, be flowed to a greater extent than is at present authorized by law.

Proviso.

May erect dams, and increase height of and strengthen existing dams.

SECT. 2. For the purposes of this act said city may from time to time erect and maintain dams, and may increase the height of and strengthen and maintain existing dams to raise the water, or to form storage-reservoirs; may make and maintain reservoirs within and without said city; may erect and maintain buildings and machinery for elevating the water, and lay down pipes for conducting the same; may build and maintain filters, conduits, and sewers, or other means of purifying the water, or of diverting impurities from the same.

And the said city may, for the purposes aforesaid, carry and conduct any conduit, aqueduct, water-main, or other work, by it to be made and constructed, under or over any water-course or any street, turn-pike road, railroad, highway, or other way, in such manner as not to unnecessarily obstruct or impede travel thereon; and may enter upon and dig up any such road, street, or way, for the purpose of laying down or constructing conduits, aqueducts, water-mains, or pipes, and for maintaining and repairing the same; and, in general, may do any other acts and things necessary or convenient and proper for the purposes of this act.

Change of grade, etc., of Boston and Lowell railroad.

Said city of Boston may also, with the consent of the directors of the Boston and Lowell Railroad Corporation, change the grade or location of so much of said railroad as is situated in the Mystic valley, or with the consent of the county commissioners of Middlesex county, or the surveyors of highways in the towns where such reservoirs are to be constructed, change the grade or location of any highway, public street, or way of travel.

Said city of Boston, in entering upon and digging up any such highway, road, street, or way of public travel, shall be subject to such reasonable regulations as shall be made by the selectmen of the towns wherein such work shall be performed, for the protection of their rights of drainage and sewerage therein; but any person or town using the conduits or sewers of said city for the purpose of drainage, shall bear a proportional part of the expense of constructing and maintaining the same.

SECT. 3. The city of Boston shall be liable to pay all damages that shall be sustained by any persons in their property, by the taking of or injury to any land, water, or water-rights, or by the flowage of the lands of any persons, or by the interference with or injury to any use or enjoyment of any of said water to which any person, at the time of such taking, is legally entitled, or by any other doings under this act; and in regard to such taking, injury, interference, and flowage, and the ascertainment and payment of all such damages, the said city of Boston and all persons claiming damages shall have all the rights, immunities, and remedies, and be subject to all the duties, liabilities, and regulations, which are provided in the one hundred and sixty-seventh chapter of the acts of the year eighteen hundred and forty-six and the three hundred and sixteenth chapter of the acts of the year eighteen hundred and fifty.

Liability for damages.

SECT. 4. Whenever the city of Boston shall dig up any street or way, as aforesaid, it shall restore the same in as good order and condition as the same shall be in when such digging commenced; and the city of Boston shall at all times indemnify and save harmless the several towns within which such street or way may be, against all damages which may be recovered against them respectively, and shall reimburse to them all expenses which they shall incur by reason of any defect or want of repair in any street or way caused by the construction of any of said works, or laying of said pipes, or by the maintaining or repairing the same: *provided*, that said city shall have due and reasonable notice of all claims for such damages or injury, and opportunity to make a legal defence thereto.

Streets and ways to be restored to as good condition as when digging commenced.

SECT. 5. If any person or persons shall wantonly or maliciously divert the water, or any part thereof, of any of the rivers, ponds, streams, or water sources, which shall be taken by the city pursuant to the provisions of this act, or shall corrupt the same, or render it impure, or destroy or injure any dam, aqueduct, pipes, conduit, hydrant, machinery, or other property held, owned, or used, by the said city, by the authority and for the purposes of this act, every such person or persons shall forfeit and pay to the said city three times the amount of damages that shall be assessed therefor, to be recovered in any proper action. And every such person or persons may, moreover, on indictment and conviction of either of the wanton and malicious acts aforesaid, be punished by fine not exceeding one thousand dollars, and imprisonment not exceeding one year, or by confinement to hard labor in the state prison for a term not exceeding ten years.

Penalty for maliciously diverting water, or rendering the same impure.

SECT. 6. For the purpose of defraying all the costs and expenses incurred under this act, the said city of Boston is authorized to issue its bonds to such an amount as may be necessary therefor, but not exceeding the cost and expenses incurred under this act, bearing interest at the rate of six per centum per annum; and said interest shall be payable semi-annually, and the principal shall be payable at periods not more than forty years from the issuing thereof; and said bonds shall be known as Mystic water bonds of the city of Boston. And the said city may sell the same or any part thereof, from time to time, by public or private sale, or pledge the same for money borrowed for the purposes aforesaid, on such terms and conditions as it shall deem proper.

Boston may issue bonds to defray expenses, etc.

SECT. 7. Nothing contained in the last preceding section shall be construed to prohibit the city of Boston from making temporary loans for the purposes therein set forth, to be redeemed within five years by the said Mystic water loan: *provided*, that the amount of said loan shall in no case exceed the amount authorized by said section.

Not prohibited from making temporary loans.

Subject to acceptance by city council.

SECT. 8. This act shall take effect upon its acceptance, within two years from its passage, by a vote of the city council of said city of Boston.¹

June 30, 1874.

[1846, 167; 1849, 187; 1850, 316; 1870, 216; 1871, 159.]

1875. — CHAPTER 73.

AN ACT IN RELATION TO THE OVERSEERS OF THE POOR IN THE CITY OF BOSTON.

Be it enacted, etc. :

May hold \$300,000 additional real and personal estate. Statutes and ordinances (ed. 1878), p. 645.

SECTION 1. The Overseers of the Poor in the City of Boston, a corporation duly established by law, are hereby authorized to hold real and personal estate not exceeding in value three hundred thousand dollars, in addition to the real and personal estate which they are authorized to hold by an act passed on the twenty-fifth day of April, in the year seventeen hundred and seventy-two, entitled, "An act for incorporating the overseers of the poor, in the town of Boston."

SECT. 2. This act shall take effect upon its passage.

March 27, 1875.

[1772, 3.]

1875. — CHAPTER 80.

AN ACT TO ESTABLISH THE BOSTON WATER BOARD.

Be it enacted, etc. :

Boston water board established.

SECTION 1. The city council of the city of Boston may establish, by ordinance, a water board, to be known as the Boston water board, consisting of three able and discreet persons, to be appointed by the mayor, with the advice and consent of the city council, and to receive such compensation as the city council may from time to time determine. The said board may be empowered by said city council to exercise all or any of the powers conferred by the statutes of the commonwealth upon the city of Boston, with reference to supplying said city with water, or of the Cochituate and Mystic water boards; and also to act as the agent of the city of Boston in doing any or all things which the city is now authorized to do in relation to the taking of lands, water-rights, and other property, and the establishment and maintenance of works and appliances for supplying the city of Boston or other cities and towns with pure water. Said board may also establish and regulate the price or rents for the use of said water, subject to the provisions of sections twelve and thirteen of chapter one hundred and sixty-seven of the acts of the year eighteen hundred and forty-six; and the words, "Boston water scrip" in said sections shall be construed to include the whole amount of outstanding loans representing the cost of the water works.

1 Allen 361.

104 Mass. 95.

Cochituate and Mystic water boards to be abolished.

SECT. 2. The Cochituate water board and the Mystic water board shall, upon the appointment of the Boston water board, as provided in the first section of this act, be thereby abolished; and the said Boston water board shall, so far as the city council of said city may by ordinance prescribe, succeed to all the powers and duties formerly vested in said Cochituate water board and Mystic water board.

¹ Accepted by the city council, July 12, 1875.

SECT. 3. The salaries of the members of the Boston water board shall not be diminished during the terms for which they are respectively appointed.

Salaries not to be diminished during terms for which appointed.
Repeal of 1874, 179.

SECT. 4. Chapter one hundred and seventy-nine of the acts of the year one thousand eight hundred and seventy-four is hereby repealed.

SECT. 5. This act shall take effect upon its passage.

March 31, 1875.

[1846, 167; 1861, 105.]

1875. — CHAPTER 127.

AN ACT TO AUTHORIZE THE TOWN OF BROOKLINE TO SUPPLY WATER TO THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. The town of Brookline may from its source of supply, or from pipes leading therefrom, sell to the city of Boston such quantity of water, for such time and on such terms as may be agreed on between said city and said town: *provided*, that said city shall first signify its desire to purchase such water by a vote of its common council and board of aldermen, approved by the mayor of said city; and that said town shall first signify its desire to sell the same by a vote of its inhabitants at a meeting duly warned for that purpose.

Brookline may sell water to Boston.

Provided.

SECT. 2. The city of Boston by its common council, and the town of Brookline at any meeting of its inhabitants, may each authorize any person to execute in its behalf a suitable contract for carrying into effect any votes passed under the first section of this act.

Contract may be executed to carry votes into effect.

SECT. 3. The vote of the said town in relation to taking water from Charles river, passed on the twenty-second day of April in the year eighteen hundred and seventy-four, fixing the amount of water to be taken by said town from said river at a million and a half gallons a day, is hereby ratified and confirmed.

Vote confirmed relative to taking water from Charles river.

SECT. 4. This act shall take effect upon its passage.

April 15, 1875.

1875. — CHAPTER 168.

AN ACT TO AMEND CHAPTER ONE HUNDRED AND SEVENTY-SEVEN OF THE ACTS OF THE YEAR EIGHTEEN HUNDRED AND SEVENTY-TWO, AUTHORIZING THE CITY OF BOSTON TO OBTAIN AN ADDITIONAL SUPPLY OF PURE WATER.

Be it enacted, etc.:

SECTION 1. Section four of chapter one hundred and seventy-seven of the acts of the year eighteen hundred and seventy-two is hereby amended by adding after the word "pond" in the eleventh line,¹ the words "or the inhabitants of the town of Hopkinton, from taking from the Sudbury river and its tributaries."

Amendment to 1872, 177, § 4.

SECT. 2. This act shall take effect upon its passage.

May 1, 1875.

[1872, 177.]

¹ In the ninth line of this reprint.

1875. — CHAPTER 176.

AN ACT CONCERNING THE TREASURER OF THE CITY OF BOSTON, AND TO ESTABLISH THE OFFICE OF COLLECTOR OF TAXES FOR SAID CITY.

Be it enacted, etc. :

City treasurer may be elected by concurrent vote.

Removal.

Collector of taxes to be elected, by concurrent vote, in May or June.

Removal.

Fees and commissions on collection of taxes, etc., to be paid into city treasury.

SECTION 1. The treasurer of the city of Boston shall hereafter be elected annually in the month of May or June by concurrent vote of both branches of the city council. He shall continue to exercise all the powers now by law belonging to his office, except those hereinafter given to the collector of the city of Boston; and he may be removed by the mayor, with the approval of the city council.

SECT. 2. There shall be elected annually in the month of May or June, by concurrent vote of both branches of the city council, a suitable person to be collector of the city of Boston, who shall hold his office until his successor is chosen and qualified. Said collector shall have the powers now possessed by the treasurer of said city as collector of taxes, and shall also collect and receive all assessments, betterments, rates, dues, and money payable on any account to the city of Boston or the county of Suffolk, and shall have all the powers with respect to such collections now possessed by the treasurer of said city, and shall pay over any and all money received by him to said treasurer, within twenty-four hours after receiving the same, taking said treasurer's receipt therefor in duplicate; and shall file with the auditor of accounts of said city the duplicate copy of the same. He shall give bond with such sureties and in such sum, and shall receive such compensation, as the city council shall determine; and he may be removed by the mayor with the approval of the city council.

SECT. 3. All fees, charges, and commissions, of every kind and description allowed by law for the collection of taxes, betterments, rates, and assessments, of every kind, to any person or persons authorized to collect the same within the city of Boston, shall, after the first day of September eighteen hundred and seventy five, be collected and paid by such persons into the treasury of the city of Boston, and shall become the property of said city. The said city is hereby authorized to pay to such persons such compensation for their services as the city council shall from time to time determine.

SECT. 4. This act shall take effect upon its acceptance by the city council of the city of Boston.¹

May 3, 1875.

[1802, 7; 1803, 15; 1807, 134; 1878, 176; P.S. 23, § 3.]

1875. — CHAPTER 184.

AN ACT TO ANNEX A PART OF THE CITY OF BOSTON TO THE CITY OF NEWTON.

Be it enacted, etc. :

Part of Boston annexed to Newton.

SECTION 1. That part of the city of Boston in the county of Suffolk, contained within the lines described as follows: beginning at a stone bound near the south bank of Charles river on the premises of William Parsons, at the present dividing line between Boston and Newton; thence running south eleven degrees twenty-nine minutes seven seconds west (magnetic meridian), over the old dividing line between Boston and Newton, across Nonantum street, and the Boston and Albany railroad, to a stone bound in a lane; thence south eleven degrees fifty-nine minutes nineteen seconds west, four hundred thirty-

¹ Accepted May 17, 1875.

eight and ninety-five hundredths feet over said old dividing line, crossing said lane, and across Washington street to a stone bound on the southerly side of said Washington street; thence south nineteen degrees thirty-five minutes seven seconds east, nine hundred seventy-two and forty-three hundredths feet over said old dividing line, across Waverly avenue, to a stone bound on the northerly side of Tremont street; thence south eighteen degrees forty-seven minutes seven seconds east, twelve hundred three and sixty-six hundredths feet over said old dividing line across said Tremont street, to a stone bound on the northerly side of Brighton street; thence north twenty-three degrees fifty-three minutes forty-four seconds east, eleven hundred seventy-one and twenty-three hundredths feet over the new dividing line across Washington street, to a stone bound on the northerly side of said Washington street; thence north forty-seven degrees three minutes fifty-three seconds east, twenty-four hundred eighty-eight and eighty-six hundredths feet over the new dividing line, across the Boston and Albany railroad to a stone bound near the south bank of Charles river; thence by the same course as the last line, and continuing the same to the thread of Charles river; thence by the thread of Charles river, westerly, up the river to a point in the thread of said river at the junction of the boundary lines of Watertown, Newton, and Boston; thence southerly to the stone bound begun at, with all the inhabitants on the lands above described, is hereby set off and separated from said city of Boston, and annexed to and made part of the city of Newton in the county of Middlesex, and shall hereafter be a part of the county of Middlesex; and the same land and the inhabitants thereon shall be deemed and considered as annexed to and constituting a part of said city of Newton, subject to the same municipal regulations, obligations, and liabilities, and entitled to the same immunities in all respects as the said city of Newton: *provided, however,* that the said tract of land and the inhabitants thereon, set off as aforesaid, shall be liable to pay all such taxes as are already assessed on them by said city of Boston, or by the town of Brighton, in the same manner as they would have been liable if this act had not been passed.

Land, etc., annexed to Newton to be a part of county of Middlesex.

SECT. 2. The stone bounds, mentioned in section one upon the new boundary line between Boston and Newton, shall be erected by the city of Newton.

Stone bounds to be erected by Newton.

SECT. 3. If any persons who have heretofore gained a legal settlement in the town of Brighton or in the city of Boston, by reason of residence on the territory set off as aforesaid, or by having been proprietors thereof, or who may derive such settlement from any such resident or proprietor, shall come to want and stand in need of relief and support, they shall be relieved and supported by the city of Newton, in the same manner as if they had gained a legal settlement in said Newton.

Persons having legal settlement in territory set off, to be supported by Newton.

SECT. 4. That part of said Boston annexed to the city of Newton by this act, for the purpose of electing a senator to the general court, to which the town of Brighton as part of the third Middlesex senatorial district is entitled, until constitutionally and legally changed, shall be and remain a part of the said town of Brighton; and, until changed as aforesaid, the mayor and aldermen of the city of Newton shall annually, fourteen days at least before the second Tuesday of November, furnish to the mayor and aldermen of Boston correct lists of all persons resident on the said territory annexed, who shall be entitled to vote at said election in the said town of Brighton, or in such ward of the city of Boston as said territory would have been part in, but for this act, so far as may be ascertained by the records and doings of the city of Newton or any of its officers.

Senatorial district.

Jurisdiction of courts and of justices of the peace.

Proviso.

SECT. 5. The several courts within the county of Middlesex, and justices of the peace, after this act takes effect, shall have the same jurisdiction over all causes and proceedings in civil causes and over all matters in probate and insolvency which shall have accrued within said territory hereby annexed, that said courts now have over like proceedings, causes, and actions, within the county of Middlesex: *provided*, that the several courts within the county of Suffolk shall have and retain jurisdiction of all causes, proceedings, and matters, that shall have been rightfully commenced in said courts prior to the time when this act takes effect; and the supreme judicial and superior courts within the county of Middlesex, after this act takes effect, shall have the same jurisdiction of all crimes, offences, and misdemeanors, that shall have been committed within the said territory, that the supreme judicial and superior courts within the county of Suffolk now have; but if, before this act takes effect, proceedings shall have been commenced in any of the courts within the county of Suffolk for the prosecution of said crimes, offences, and misdemeanors, the said courts within the county of Suffolk shall have and retain jurisdiction of the same for the full, complete, and final disposition thereof. All suits, actions, proceedings, complaints, indictments, and prosecutions, and all matters of probate and insolvency which shall be pending within said territory before any court or justice of the peace when this act takes effect, shall be heard and determined as though this act had not passed.

All interest in public property of Suffolk to be acquitted to Suffolk.

SECT. 6. All the interest which said territory now has in the public property of the county of Suffolk is released and acquitted to the county of Suffolk. Nothing contained in this act shall impair the obligation of contracts; and the property and inhabitants of said territory shall continue liable to the existing creditors of the county of Suffolk in like manner as if this act had not been passed: *provided*, that if any person by reason of his being an inhabitant of or owning property in said territory shall be compelled to pay any part of an existing debt or obligation of the county of Suffolk, the amount of such payment shall constitute a debt to him from said county, as hereafter to be constituted, exclusive of said territory, and may be recovered in like manner as other debts against the county of Suffolk.

Debts of county of Suffolk and city of Boston.

Such portions of the debts and obligations of the county of Suffolk and city of Boston, existing when this act takes effect, over and above the value of all the property belonging to said county as should proportionally and equitably be paid by the inhabitants and property-owners of said territory by this act annexed to the city of Newton, shall be paid by said city to said county of Suffolk and city of Boston, and the supreme judicial court shall have jurisdiction in equity to determine the amount, if any, and enforce the payment of the same upon a suit in equity, in the name of said county and city, to be brought therefor within six months after this act goes into effect, by the mayor and aldermen of the city of Boston, if they deem such suit for the interest of the said county and city; but no such suit shall be instituted after six months.

Territory annexed to be part of ward one, in Newton.

SECT. 7. The territory hereby annexed to the city of Newton shall be attached to and made part of ward one in the city of Newton, and shall so remain until the alteration of the ward limits by the city of Newton as provided by law.

County and city ways.

SECT. 8. The city of Newton shall have the power and authority to alter, straighten, widen, repair, and grade, all county and city ways within said territory in the same way that it is now authorized to alter, straighten, widen, repair, and grade, city ways and streets.

Subject to acceptance by city of Newton.

SECT. 9. This act shall not take effect unless accepted by the city of Newton within two months from its passage.

SECT. 10. The city clerk of Newton shall certify to the secretary of the commonwealth the acceptance by the city council of Newton, immediately after the same has been accepted.

City clerk to certify acceptance to secretary of the commonwealth.
When to take effect.

SECT. 11. So much of this act as authorizes the city council of Newton to accept the same shall take effect upon its passage, and if accepted as herein provided it shall take effect on the first day of July, in the year eighteen hundred and seventy-five.

May 5, 1875.

1875. — CHAPTER 185.

AN ACT FOR THE LAYING OUT OF PUBLIC PARKS IN OR NEAR THE CITY OF BOSTON.

Be it enacted, etc. :

SECTION 1. The mayor of the city of Boston, with the approval of the city council, shall, as soon as may be after this act shall take effect, appoint three competent commissioners, who shall hold their offices until the expiration of terms of two, three, and four years, respectively, from the first day of May, in the year eighteen hundred and seventy-five. The mayor shall, with like approval, before the first day of May in each year after the year eighteen hundred and seventy-six, appoint a commissioner, to continue in office for the term of three years from said day. No person shall be a commissioner who is at the same time a member of the city council of said city; and any commissioner may at any time be removed by a concurrent vote of two-thirds of the whole of each branch of said council.

Three commissioners to be appointed by the mayor of Boston.

SECT. 2. Said commissioners shall constitute a board of park commissioners, and any vacancy occurring in said board shall be filled for the residue of the term of the commissioner whose place is to be filled, in the same manner in which such commissioner was originally appointed. Said commissioners shall receive such compensation as the city council shall determine.

Board of park commissioners.
Vacancies.

SECT. 3. Said board shall have power to locate, within the limits of the city of Boston, one or more public parks; and, for that purpose, from time to time, to take in fee, by purchase or otherwise, any and all such lands as said board may deem desirable therefor, or to take bonds for the conveyance thereof to said city; to lay out, improve, govern, and regulate, any such park or parks, and the use thereof; to make rules for the use and government thereof, and for breaches of such rules, to affix penalties not exceeding twenty dollars for one offence, to be imposed by any court of competent jurisdiction; to appoint all necessary engineers, surveyors, clerks, and other officers, including a police force to act in such parks; to define the powers and duties of such officers, and fix the amount of their compensation; and generally to do all needful acts for the proper execution of the powers and duties granted to, or imposed upon, said city, or said board, by this act: *provided, however,* that no land shall be taken, or other thing, involving an expenditure of money done, until an appropriation, sufficient to cover the estimated expense thereof, shall have been made by a vote of two-thirds of each branch of the city council of said city.

Compensation.

May locate, etc., one or more parks in the city.

To make rules for government of parks.

To appoint engineers and police force.

No land to be taken until sufficient appropriation is made.

SECT. 4. Said board shall, within sixty days after the taking of any land under this act, file in the registry of deeds for the county in which the land is situated, a description thereof, sufficiently accurate for identifying the same.

To file in registry of deeds a description of the land taken.

SECT. 5. Said board shall estimate and determine all damages sustained by any persons by the taking of land or other acts of said

To estimate and determine all damages.

board in the execution of the powers vested in them by this act; but any party aggrieved by any such determination of said board, may have his damages assessed by a jury of the superior court, in the same manner as is provided by law, with respect to damages sustained by reason of the laying out of ways in the city of Boston.

Fee of lands
taken to vest in
city.

SECT. 6. The fee of all lands taken or purchased by said board under this act shall vest in the city of Boston, and said city shall be liable to pay all damages assessed or determined, as provided in the preceding section, and all other costs and expenses incurred by said board in the execution of the powers vested in them by this act. Said city shall also be authorized to take and hold in trust, or otherwise, any devise, grant, gift, or bequest, that may be made for the purpose of laying out, improving, or ornamenting, any parks in said city.

Real estate may
be assessed for
betterments.
127 Mass. 408.
131 Mass. 225.
133 Mass. 321.

SECT. 7. Any real estate in the city of Boston, which, in the opinion of said board, shall receive any benefit and advantage from the locating and laying out of a park under the provisions of this act, beyond the general advantages to all real estate in the city of Boston, may, after like notice to all parties interested as is provided by law, to be given by the street commissioners of the city of Boston in cases of laying out streets in said city, be assessed by said board for a proportional share of the expense of such location and laying out: *provided*, that the entire amount so assessed upon any estate shall not exceed one-half of the amount which said board shall adjudge to be the whole benefit received by it.

Proviso.

Assessments to
be made within
two years.

SECT. 8. No assessment shall be made as provided in the preceding section, except within two years after the passage of the order, the execution of which causes the benefit for which the assessment is made.

To constitute a
lien upon real
estate.

SECT. 9. All assessments made under this act shall constitute a lien upon the real estate so assessed, to be enforced and collected by the city of Boston in the same manner and with like charges for costs and interest as is provided by law for the collection of taxes; and such assessments may be apportioned by said board in like manner as assessments for benefits caused by the laying out of ways may now be apportioned by the street commissioners of said city.

Party aggrieved
may have assess-
ment by a jury.

SECT. 10. Any party aggrieved by any assessment made by said board as aforesaid, may have the amount of the benefit received by his estate assessed by a jury of the superior court in the same manner as is provided by law with respect to damages sustained by reason of the laying out of ways in the city of Boston.

Assessment
upon leased real
estate to be paid
by owner.
Owner may
collect addi-
tional rent of
lessee.

SECT. 11. When an assessment is made under this act upon an estate, the whole or any portion of which is leased, the owner of the estate shall pay the assessment, and may thereafter collect of the lessee an additional rent for the portion so leased, equal to ten per centum per annum on that proportion of the whole sum paid, which the leased portion bears to the whole estate after deducting from the whole sum so paid any amount he may have received for damages to the estate above what he has necessarily expended on such estate by reason of such damages.

Public park
loan.

SECT. 12. For the purpose of defraying the expenses incurred under the provisions of this act, the city council of Boston shall have authority to issue, from time to time, and to an amount not exceeding the amount actually expended for the purchase or taking of lands for said parks, bonds or certificates of debt, to be denominated, on the face thereof, the "Public Park Loan," and to bear interest at a rate not exceeding six per centum per annum, and to be payable at such periods as said council may determine. For the redemption of such loan, said council shall establish a sinking-fund sufficient, with the

Sinking fund.

accumulating interest, to provide for its payment at maturity. All sums received for betterments shall be paid into said sinking-fund, until such fund shall amount to a sum sufficient, with its accumulation, to pay at maturity the bonds for the security of which the fund was established.

SECT. 13. No street or way, and no steam or horse railroad, shall be laid out over any portion of any park located under this act, except at such places and in such manner as said board shall approve.

Streets, etc., not to be laid out over park, except as board approves. Military bodies not to enter park, unless board consent.

SECT. 14. No military encampment, parade, drill, review, or other military evolution or exercise, shall be held or performed on any park laid out as aforesaid, except with the prior consent of said board; nor shall any military body, without such consent, enter or move in military order within the same, except in case of riot, insurrection, rebellion, or war.

SECT. 15. Said board shall annually, in the month of January, make to the city council of Boston a full report of its doings for the preceding year, including a detailed statement of all their receipts and expenditures.

Annual report to be made to city council.

SECT. 16. The mayor of any city adjoining the city of Boston may, with the approval of the city council of such adjoining city, appoint, and the inhabitants of any town adjoining the city of Boston may, at any legal meeting called for the purpose, elect park commissioners, who shall have powers similar to those herein before given to the park commissioners of the city of Boston, to lay out and improve parks within such adjoining city or town, in conjunction or connection with any park laid out in Boston; and any park laid out by the park commissioners of such adjoining city or town shall be subject to similar provisions to those herein before made regarding parks in Boston, and such adjoining city or town shall have similar rights, and be subject to similar duties, to those herein before given to, and imposed upon, the city of Boston in relation to incurring debts for the purpose of defraying expenses incurred under this act: *provided, however*, that the provisions of this section shall not apply to any such adjoining city that has not accepted the same by a vote of a majority of the legal voters at the annual meeting for the choice of municipal officers.

Park commissioners may be appointed in cities adjoining Boston.

SECT. 17. This act shall not take full effect unless accepted¹ by a majority of the legal voters of the city of Boston, present, and voting thereon, by ballot and using the check-list, at meetings which shall be held in the several wards of said city on the second Wednesday of June in the present year, and upon notice thereof duly given at least seven days before the time of said meetings; and the polls shall be opened not later than nine o'clock in the forenoon and closed not earlier than six o'clock in the afternoon of said day. In case of the absence of any ward officer at any ward meeting in said city, held for the purpose aforesaid, a like officer may be chosen *pro tempore* by hand vote, and shall be duly qualified, and shall have all the powers and be subject to all the duties of the regular officer at said meetings. Said ballots shall be "yes" or "no," in answer to the question, "Shall an act passed by the legislature of the commonwealth, in the year eighteen hundred and seventy-five, entitled 'an act for the laying out of public parks in or near the city of Boston,' be accepted?" Such meetings shall be called, notified, and warned, by the board of aldermen of said city in the same manner in which meetings for the election of municipal officers are called, notified, and warned.

Proviso.

Subject to acceptance by a majority vote.

The ballots given in shall be assorted, counted, and declared, in

Meetings to be notified, etc., as

¹ Accepted June 9, 1875; see Statutes and Ordinances (ed. 1876), p. 590, note. An act for the laying out of one or more public parks in or near the city of Boston, approved May 27, 1870 (St. 1870, c. 283), was rejected.

for election of
municipal
officers.

Board of alder-
men to certify
result to secre-
tary of the com-
monwealth.

Secretary to
issue his certifi-
cate if act is ac-
cepted.

When to take
effect.

open ward meeting, and shall be registered in the ward records. The clerk of each ward shall, within forty-eight hours of the close of the polls, make return to the board of aldermen of the number of ballots cast in his ward in favor of the acceptance of this act, and of the number cast against its acceptance. And it shall be the duty of the board of aldermen to certify, as soon as may be, to the secretary of the commonwealth, the whole number of ballots cast in said city in favor of the acceptance of this act, and the whole number cast against said acceptance; and if it shall appear that a majority of the ballots have been cast in favor of acceptance, the said secretary shall immediately issue and publish his certificate declaring this act to have been duly accepted.

SECT. 18. So much of this act as authorizes and directs the submission of the question of its acceptance to the legal voters of the city of Boston shall take effect upon its passage.

May 6, 1875.

1875. — CHAPTER 195.

AN ACT RELATING TO THE MASSACHUSETTS INSTITUTE OF TECHNOLOGY AND THE CITY OF BOSTON.

Be it enacted, etc.:

Land may be
granted to
Massachusetts
Institute of
Technology.

Proviso.

SECTION 1. The governor and council are hereby authorized to grant to the Massachusetts Institute of Technology the right to hold, occupy, and control, such a parcel of land out of the lands of the commonwealth, situated in that part of Boston called the Back bay, as they shall deem a fair equivalent for the similar right with regard to the parcel of land granted to said institute by the one hundred and seventy-fourth chapter of the acts of the year eighteen hundred and seventy-three: *provided*, that said institute shall execute a satisfactory release to the commonwealth of all its right, title, and interest, in and to said last named parcel acquired by it under said act.

The said institute shall thereupon have the right to hold, occupy, and control, the said first-named parcel of land upon the same trusts, and subject to the same limitations, stipulations, and conditions, as are set forth in said act, with reference to the parcel described therein.

Land may be
granted to the
city of Boston,
to be kept open
as a public park,
etc.

SECT. 2. Upon the release to the commonwealth by the Massachusetts Institute of Technology of all its right, title, and interest, in the parcel of land granted to it by the one hundred and seventy-fourth chapter of the acts of the year eighteen hundred and seventy-three, and upon payment by the city of Boston of such a sum to the treasurer of the commonwealth, as may be deemed adequate by the governor and council, the said governor and council are hereby authorized to grant to said city of Boston a perpetual right to hold, occupy, and control, said parcel of land, free from rent or charge by the commonwealth, upon condition that it shall forever be kept open as a public park by said city; said lot to be subject to the limitations and stipulations relative to lands of the commonwealth on the south side of Boylston street, and to be reserved from sale forever; and upon the further condition that the city of Boston shall acquire, by purchase or otherwise, the remainder of the trapezoid of land of which this parcel is a part, lying westerly thereof, and between this parcel and Dartmouth street, and shall appropriate it to the same purpose.

If the land is
used for any
other purpose,
commonwealth

SECT. 3. In case said city shall appropriate the parcel of land hereby granted, to any purpose foreign to that for which it is granted, then the commonwealth, after due notice given, may enter upon said

lot and take possession thereof, and the right of the city of Boston to the use, occupation, and control, of said lot, shall thereupon cease. may take possession.

SECT. 4. This act take effect upon its passage.

May 8, 1875.

[1873, 174; 1881, 107.]

1875. — CHAPTER 202.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO CONSTRUCT A SEWER IN THE MYSTIC VALLEY.

Be it enacted, etc.:

SECTION 1. The city of Boston is hereby authorized, for the purpose of preserving the purity and remedying the pollution of the water supplied to said city from Mystic pond, so called, by virtue of chapter one hundred and five of the acts of the year eighteen hundred and sixty-one, and the acts in addition thereto, and amendment thereof, to construct for that purpose a main sewer, with as many branches as may be from time to time deemed necessary, in the Mystic valley and on the easterly side of the ponds and streams which discharge into said Mystic pond, commencing in the town of Woburn, running in a south-easterly direction through the town of Winchester into the town of Medford, and emptying into the lower Mystic pond at some convenient point near the upper end thereof. City of Boston may construct sewer in Mystic valley. 1877, 11, § 1.

Said city is authorized to extend or divert into said main sewer or any of its branches, any streams or water-courses, whether natural or artificial, flowing directly or indirectly into Mystic pond or its head-waters, or into any stream or pond connected with or discharging into said Mystic pond, which contain any sources of pollution.

Said city may also deepen the channel and remove obstructions from any such stream or water-course, and may wall in and cover over the same. It may take or purchase such land as may be necessary for this purpose not exceeding three rods in width on either side of such stream or water-course, or of any channel into which it may conduct or divert the same. May deepen channels and remove obstructions from water-courses.

Said city is likewise authorized to extend or divert into said main sewer or any of its branches, any drain or sewer emptying directly or indirectly into Mystic pond, or into any stream or pond connected with or discharging into said Mystic pond.

Said city is likewise authorized to conduct or divert into said main sewer or any of its branches, any sewage, drainage, or pollution of any kind, caused by any town, corporation, person or persons, which now finds or shall hereafter be in danger of finding its way directly or indirectly into said Mystic pond, or its head-waters, or into any stream or pond connected with or discharging into said Mystic pond.

Said city may, for the purposes aforesaid, erect such machinery, pumps, and appliances of any kind which may be found necessary from time to time. May erect machinery, pumps, etc.

SECT. 2. The city of Boston may take and hold by purchase or otherwise, any lands, real estate, or water-rights, necessary for laying and maintaining said main sewer and its branches, and for the extension or diversion of any water-courses, natural or artificial, and of any drains or sewers which it may extend or divert, and for the construction of any works which it may erect by virtue of the provisions of this act. May take and hold lands and water-rights.

It may construct said main sewer and its branches, and conduct, extend, or divert, said water-courses, sewers, or drains, over or under any water-course, or any streets, turnpike roads, railroads, highways or other ways, and may enter upon and dig up such roads, streets, or May dig up roads or ways.

ways, for the purpose of construction, maintenance, and repair, and in such a manner as not to render the same unnecessarily inconvenient for public travel during the work thereon, and in general may do other acts and things necessary and proper for the purposes of this act.

Said city of Boston may, also, with the consent of the directors of the Boston and Lowell Railroad Company, for the time being, change the grade or location of so much of said railroad as is situated in the Mystic valley. It may also change the grade of any highway, public street, or way of travel, within the towns of Medford, Woburn, or Winchester, crossed by said sewer or any of its branches, subject to such reasonable regulations as may be prescribed by the selectmen of the town in which such highway or street is located.

Flow of water in streams intercepted by sewers.

SECT. 3. Wherever said main sewer or its branches shall intercept streams, drains, or sewers, existing at the date of the passage of this act, the said city of Boston shall connect the same with said main sewer or its branches, or make such other provision as not to destroy or unnecessarily injure the flow of the same.

To restore streets to good order and condition. City of Boston liable for damages, etc.

SECT. 4. Whenever the city of Boston shall dig up any street or way, as aforesaid, it shall restore the same to as good order and condition as the same shall be in when such digging commenced; and the city of Boston shall at all times indemnify and save harmless the town of Woburn, the town of Winchester, and the town of Medford, against all damage which may be recovered against them, respectively, and shall reimburse to them, respectively, all expenses which they shall incur, by reason of any defect or want of repair in any street or way, caused by the construction of said main sewer or any of its branches, or the extension or diversion of said water-courses, sewers, or drains, or by the maintaining or repairing of the same: *provided*, that said city shall have due and reasonable notice of all claims for such damages or injury, and opportunity to make a legal defence thereto.

Proviso.

Sewer to be substantially made and kept in order by Boston.

SECT. 5. The main sewer and its branches to be constructed under this act shall be the property of the city of Boston, shall be substantially made with brick and stone, or with such other materials and in such manner as the board of aldermen of the city of Boston shall permit or direct, and shall be kept and maintained in good order by the city of Boston.

Expense of repairs to be assessed upon persons benefited.

The city of Boston shall at all times have the right to repair the same, and to remove stoppages therefrom, and may assess the expense, or any portion thereof, on all persons benefited by such repairs, or removal of obstructions, in the manner designated in the eleventh and twelfth sections of chapter forty-eight of the general statutes of the commonwealth, and the board of aldermen of the city of Boston shall have the powers therein granted to selectmen of towns, but no part of such expense shall be assessed upon towns, corporations, or persons, who do not use said main sewer or its branches, or who are lawfully entitled to discharge their sewage or drainage into said Mystic pond or its head-waters at the date of the passage of this act. All juries applied for under this section shall be drawn from the county of Middlesex.

Liability for damages.

SECT. 6. The city of Boston shall be liable to pay all damages that shall be sustained by any person, town, or corporation, in his or its property, by the taking of or injury to any land, real estate, water, or water-rights, or by the interference with or injury to the use of any water-course to which such person, town, or corporation, is legally entitled at the time of such taking; and in regard to such taking, injury, or interference, and the ascertainment and payment of all such damages, the said city of Boston and all persons, towns, or corpora-

tions, claiming damages, shall have all the rights, immunities, and remedies, and be subject to all the duties, liabilities, and regulations, which are provided in the one hundred and sixty-seventh chapter of the acts of the year eighteen hundred and forty-six, the one hundred and eighty-seventh chapter of the acts of the year eighteen hundred and forty-nine, and the three hundred and sixteenth chapter of the acts of the year eighteen hundred and fifty.

SECT. 7. No corporation, person, or persons, shall hereafter discharge any sewage, drainage, or pollution, of any kind, which they have not the legal right so to discharge, at the date of the passage of this act, and no city or town shall discharge its public drainage or sewage into the said upper Mystic pond, or any head-water, pond, or stream, running into, or connected therewith, or into the said main sewer or any of its branches, or into any drain or sewer directly or indirectly connected therewith, or into any stream or water-course diverted into said main sewer, or into the branches thereof, or into any drain, sewer, or conduit, emptying into said stream or water-course or its branches, without the permission of the city of Boston; but any such town, corporation, person, or persons, may, with the permission of the city of Boston, enter a drain or sewer into such main sewer or any of its branches, upon giving six months' notice to said city of Boston of their desire so to do, and upon payment of a reasonable compensation to said city for the use of the same.

Drainage of other towns, etc., not to enter main sewer without consent of Boston. 1877, 11.

If the city of Boston and said town, corporation, person, or persons, shall be unable to agree upon said compensation, either party may petition the supreme judicial court for the appointment of a commission of three suitable persons, who shall hear the parties and determine the compensation to be paid to the city of Boston. Such compensation may consist of a sum in gross, or of a yearly payment to be made to said city, as said commissioners may decide; and the report of said commissioners, or of a majority of them, being subject to the revision of, and being accepted by, the supreme judicial court, shall be final, and judgment shall issue thereon.

Compensation for use of sewer by other towns.

The entry of any drain or sewer into said main sewer or any of its branches, shall be made under the direction of the city of Boston, and subject to such reasonable rules and regulations as may be made by the city council thereof.

Upon the establishment by the towns of Woburn or Winchester or Medford, of any system of sewerage or drainage, the sewers established by said towns to the northward and eastward of said system of sewers of the city of Boston, and through territory which naturally drains toward said main sewer of the city of Boston or any of its branches, shall be entered into said sewers of said city of Boston, and compensation therefor shall be made severally by said towns to said city of Boston, and shall be determined, if the parties shall be unable to agree, in the manner herein before set forth: *provided*, that in all cases under this section, no such town, corporation, person, or persons, shall be entitled to make such entry except by permission of the city of Boston, or upon such terms as shall be determined by the supreme judicial court.

SECT. 8. Nothing in this act shall be so construed as to impair the rights heretofore granted to the towns of Woburn and Winchester for supplying themselves with pure water; or to prohibit the saving and use of sewage and drainage matter for fertilizing purposes, or making any local disposition of the same, which shall not pollute the waters of said upper Mystic pond.

Rights of Woburn and Winchester not to be impaired.

SECT. 9. If any town, corporation, person, or persons, shall wantonly or maliciously discharge any sewage, drainage, or cause of pollution, into the said upper Mystic pond, or any head-water, pond, or

Penalty for polluting water of Mystic pond.

stream, running into or connected therewith, such town, corporation, person, or persons, shall be liable to the penalties declared in the fifteenth section of the one hundred and sixty-seventh chapter of the acts of the year eighteen hundred and forty-six.

Penalty for unlawfully entering drain.

SECT. 10. If any town, corporation, person, or persons, shall, contrary to the provisions of this act, enter any drain or sewer, or conduct any sewage or drainage matter, or pollution of any kind, into any drain or sewer constructed by the city of Boston by virtue of this act, or into any water-course, stream, or channel, natural or artificial, connected therewith, or shall wantonly or maliciously injure or destroy, or divert or obstruct any such drain or sewer, or destroy or injure any machinery or property held, owned, or used, by the said city by the authority and for the purposes of this act, such town, corporation, person, or persons, shall forfeit and pay to said city of Boston, three times the amount of the damages that shall be assessed therefor, to be recovered in any proper action.

Injunction may be granted by supreme judicial court.

SECT. 11. It shall be lawful for the supreme judicial court, upon application of the city of Boston, to grant an injunction against any unlawful use of or interference by any one with any sewers or drains constructed by the city of Boston under this act, or against the unlawful entry of any drain or sewer, directly or indirectly, into the same, or into any drain, sewer, or water-course, connected therewith, or against the unlawful pollution or corruption of the upper Mystic pond, or its head-waters, or of any pond or stream flowing into or connected with the same; and damages therefor may be assessed by said court, as incident to such process.

Legislature may regulate disposition of sewage from time to time.

SECT. 12. This act shall not be construed to grant an interminable right to discharge sewage into Mystic lower pond; but the legislature may, from time to time, by law, regulate and determine the disposition to be made of such sewage for the purpose of protecting the public health, and especially that of the inhabitants of Arlington and Medford, and preventing the existence of a nuisance, anything to the contrary in this act notwithstanding.

Mystic sewer bonds of the city of Boston may be issued.

SECT. 13. For the purpose of defraying all the cost and expenses incurred under this act, the said city of Boston is authorized to issue its bonds to such an amount as may be necessary therefor, but not exceeding the costs and expenses incurred under this act, bearing interest at the rate of six per centum per annum; and said interest shall be payable semi-annually, and the principal shall be payable at periods not more than forty years from the issuing thereof; and said bonds shall be known as the "Mystic sewer bonds of the city of Boston." And the said city may sell the same, or any part thereof, from time to time, by public or private sale, or pledge the same for money borrowed for the purposes aforesaid, on such terms and conditions as it shall deem proper.

Subject to acceptance by city council.

SECT. 14. This act shall take effect upon its acceptance by the city council of the city of Boston.

May 10, 1875.

[1861, 105; 1863, 9; 1870, 216; 1874, 400; 1877, 11; 1881, 303; 1884, Resolves, c. 63.]

1875. — CHAPTER 214.

AN ACT TO PROVIDE FOR A CHANGE OF THE LOCATION AND TRACKS OF THE EASTERN RAILROAD COMPANY, THE BOSTON AND ALBANY RAILROAD COMPANY, AND THE BOSTON, REVERE BEACH, AND LYNN RAILROAD COMPANY, IN EAST BOSTON.

Be it enacted, etc. :

SECTION 1. The Eastern Railroad Company, the Boston and Albany Railroad Company, and the Boston, Revere Beach, and Lynn Railroad Company, are hereby authorized, on the request in writing of the mayor, duly authorized by the board of aldermen of the city of Boston, to discontinue and remove, in whole or in part, such portion of the location and tracks of said corporations as are situated in that part of Boston known as East Boston, and to relocate the same upon a new line, to the east of the present one, in such manner as may be agreed upon between said corporations and the said mayor and aldermen; and for this purpose they may purchase or take land and other property in the method provided for in chapter three hundred and seventy-two of the acts of the year eighteen hundred and seventy-four; and the said relocated road may be constructed over and across tide-waters lying to the eastward of said East Boston, in such manner as may be approved by the board of harbor commissioners.

Location and tracks of railroads may be changed in East Boston.

P.S. 112.

SECT. 2. Should the Eastern Railroad Company, the Boston and Albany Railroad Company, and the Boston, Revere Beach, and Lynn Railroad Company, discontinue and relocate their tracks on the request and in the manner specified in the preceding section, the cost of so doing shall be apportioned among the said Eastern Railroad Company, the Boston and Albany Railroad Company, the Boston, Revere Beach, and Lynn Railroad Company, and the city of Boston, by a commission which, upon the petition of said corporations, or either of them, shall be appointed, and shall proceed in the manner and with the powers set forth in sections ninety-eight and ninety-nine of chapter three hundred and seventy-two of the acts of the year eighteen hundred and seventy-four.

Expense of relocation to be apportioned among railroads and city of Boston.

P.S. 112, §§ 131-134.

SECT. 3. The amount, or any part thereof, assessed, under this act, against the city of Boston by said commissioners, may be levied upon the estates benefited by said relocation, in the manner provided by law with respect to betterments upon the laying out and discontinuance of highways in said city of Boston: *provided*, that no estate shall be assessed with a betterment exceeding one-half its increased value by reason of the change of location of said railroad companies; and *provided*, that the board of aldermen of the city of Boston shall determine that it is expedient that said amount, or any part thereof, assessed by said commissioners against said city, shall be raised by levying said betterments.

Assessment for betterments.

Proviso.

Proviso.

SECT. 4. This act shall take effect upon its passage.

May 15, 1875.

1875. — CHAPTER 228.

AN ACT TO PRESERVE THE PURITY OF THE WATER OF LAKE COCHITUATE.

Be it enacted, etc. :

SECTION 1. It shall be lawful for the supreme judicial court, upon the application of the city of Boston, to grant an injunction against the discharge of any drainage or sewage matter, or pollution of any kind, into Lake Cochituate or Pegan brook, or any waters flowing into said lake or brook: *provided*, that this shall not be held to

The supreme judicial court may restrain discharge of drainage, etc., into waters of Lake Cochituate

and Pegan
brook.
Proviso.
Sewerage in
Natick.

destroy the prescriptive right of any person or persons to discharge such matter into said lake or brook.

SECT. 2. The town of Natick shall have the right to divert the waters of any brook, rivulet, or stream, now running into Lake Cochituate, into which the sewerage or drainage of Natick now empties: *provided*, that nothing in this act shall be construed so as to give any right to said town to divert such brook, rivulet, or stream, into Charles river.

SECT. 3. This act shall take effect upon its passage.

May 19, 1875.

[1846, 167; P.S. 80, §§ 96, 97; 1884, 154, 172.]

1875. — CHAPTER 241.

AN ACT TO REORGANIZE THE SCHOOL COMMITTEE OF THE CITY OF BOSTON.

Be it enacted, etc.:

School com-
mittee to con-
sist of mayor
and twenty-four
persons elected
by the voters.
115 Mass. 383,
602.

SECTION 1. The qualified voters of the city of Boston, at the annual municipal election occurring in the year eighteen hundred and seventy-five, shall elect twenty-four persons, inhabitants of the city, to constitute, with the mayor of said city, who shall be *ex officio* chairman thereof, the school committee of said city, the members of which shall serve without compensation; the eight persons who shall have received the largest number of votes, shall hold their office for three years; the eight persons who shall have received the next largest number of votes, shall hold their office for two years; and the eight persons who shall have received the next largest number of votes, shall hold their office for one year. In case two or more persons elected shall have received an equal number of votes, those who are the seniors by age shall, for the division into classes hereby required, be classified as if they had received the largest number of votes in the order of ages. And thereafter the qualified voters shall annually elect eight persons, inhabitants of the city, to serve as members of the school committee for the term of three years.

Eight members
to be elected
every year.

Clerk of wards
to make returns
of votes to city
clerk.

SECT. 2. It shall be the duty of the clerks of the several wards of said city to make returns to the city clerk after each municipal election, of the votes cast in their several wards for members of the school committee, and after the entry by the city clerk of said returns, or of an abstract thereof, in the official book kept for such purpose, it shall be the duty of the board of aldermen to examine and compare said returns and thereupon to cause certificates of election to be issued to such and so many of the members of said school committee as appear to have been chosen at such election; but said school committee shall be the final judge of the qualifications and elections of its own members.

Organization of
committee.

SECT. 3. The persons so chosen as members of the school committee shall meet and organize on the second Monday in January, in the year eighteen hundred and seventy-six, and annually thereafter, at such time and place as the mayor may appoint. The unexpired term of office of all members and officers of the school committee as hitherto organized and established, shall terminate immediately upon the organization of the school committee elected under this act.

A majority shall
constitute a
quorum.

SECT. 4. A majority of all the members of the school committee shall be necessary to constitute a quorum for the transaction of business. They shall choose a secretary, not of their own number, who shall also serve as secretary to the board of supervisors, an auditing clerk, and such other subordinate officers as they may deem expedient,

and shall define their duties, fix their compensation, and may remove them at pleasure.

SECT. 5. The school committee shall have the supervision and direction of the public schools, and shall exercise the powers and perform the duties in relation to the care and management of schools which are now exercised and performed by the school committee of said city, except so far as they may be changed or modified by this act, and shall have the powers and discharge the duties which may hereafter be imposed by law upon the school committees of cities and towns. They may elect teachers, and may discharge those now in office, as well as those hereafter elected. They shall appoint janitors for the school-houses, fix their compensation, designate their duties, and may discharge them at pleasure. They may fix the compensation of the teachers, but the salaries established at the commencement of each school year shall not be increased during such year.

Powers and duties of committee.
5 Cush. 168.
8 Cush. 160.
12 Gray, 339.
105 Mass. 475.
116 Mass. 365.
123 Mass. 545.
133 Mass. 103.

127 Mass. 290.

SECT. 6. Whenever, in the judgment of the school committee, a new building, or any addition to, or alteration of, a building, is needed for school purposes, of an estimated cost of over one thousand dollars, they shall make a statement in writing to the city council, of the necessity of the proposed building, addition, or alteration; and no contract for the purchase or lease of land, or for the erection, purchase, or lease, of any building, or for any addition to, or alteration of, any building for school purposes, shall be authorized by the city council until such statement has been made, nor until the locality and plans for the same have been approved by the school committee, or by a sub-committee thereof, duly authorized to approve the same.

Building or altering school-houses.

SECT. 7. The school committee shall elect a superintendent of schools and a board of supervisors, consisting of not more than six members, and shall define their duties and fix their compensation. The superintendent and the members of the board of supervisors shall hold office for the term of two years, unless sooner removed; and they may be removed for cause at any time by the school committee. No member of either branch of the city council, or of the school committee, shall hold the office of superintendent or supervisor, and no member of either branch of the city council shall be a member of the school committee. The superintendent shall be a member of the board of supervisors, and shall, when present, preside at their meetings.

Superintendent and supervisors to be elected by committee.

SECT. 8. The votes of a majority of the whole number of members of the school committee shall be necessary to elect the superintendent of schools, the supervisors, the head masters of the Latin, normal and high schools, the masters of the grammar schools, or the director of a special study or exercise.

Majority of whole committee required to elect superintendent, masters, etc.

May 19, 1875.

1875. — CHAPTER 243.

AN ACT TO AUTHORIZE THE DIVISION OF THE CITY OF BOSTON INTO TWENTY-FOUR WARDS, AND TO FIX THE NUMBER OF MEMBERS OF THE COMMON COUNCIL.

Be it enacted, etc.:

SECTION 1. It shall be the duty of the city council of the city of Boston, and it is hereby empowered, during the year eighteen hundred and seventy-five, and each tenth year thereafter in which a census shall be taken by authority of the commonwealth, to cause a new division of the city to be made into twenty-four wards, in such manner as to include an equal number of voters in each ward, as nearly as conveniently may be, consistently with well defined limits to each

City to be divided into twenty-four wards.

ward, and until such division is made, the boundary lines of the wards shall remain as established.

The city council may, also, from time to time, prescribe a place in each ward at which elections shall be held.

Election of
members of
common
council.
1876, 225, § 8.

1876, 242.

SECT. 2. At the municipal election in the year eighteen hundred and seventy-five, and every year thereafter, the qualified voters of each ward shall bring in their votes for three able and discreet men, qualified voters in said ward, to be members of the common council for the ensuing year; and all the ballots so given in each ward, being sorted, counted, and declared, a public declaration of the result shall be made by the warden in open ward meeting; and a record of such proceedings shall be kept by the clerk in his journal, stating the number of ballots given for each person, written in words at length.

Ward officers.

SECT. 3. The terms of office of all ward officers heretofore chosen shall expire on the day before the next annual municipal election; and the mayor and aldermen shall appoint from the legal voters of each ward, as established under the first section of this act, a warden, clerk, and four inspectors of elections, who shall officiate in their several capacities, on the day of said municipal election, upon being duly qualified, and who shall hold their several offices until the first Monday of January, eighteen hundred and seventy-six.

At the municipal election of the year eighteen hundred and seventy-five, and every year thereafter, ward officers shall be elected according to law.

Repeal of 1854,
448, § 20.

SECT. 4. Section twenty of chapter four hundred and forty-eight of the acts of the year eighteen hundred and fifty-four, and all acts and parts of acts inconsistent with the provisions of this act, are hereby repealed; but nothing contained in this act, or in the proceedings which may be had by virtue of the authority conferred by it upon the city council, shall be held to alter the method of election, or qualifications of the ward officers, or to alter the boundaries of the jurisdiction of the several municipal courts of the city of Boston, as they are now established by law.

SECT. 5. This act shall take effect upon its passage.

May 19, 1875.

[1854, 448; 1876, 242.]

1876. — CHAPTER 11.

AN ACT TO CHANGE THE TIME OF ELECTION OF THE DIRECTORS OF THE COLLATERAL LOAN COMPANY, AND FOR OTHER PURPOSES.

Be it enacted, etc.:

Government to
be in seven
directors.

SECTION 1. Section six of chapter one hundred and seventy-three of the acts of eighteen hundred and fifty-nine is hereby amended so as to read as follows: The government of the company shall be in seven directors, five of whom shall be chosen annually, at such time as the stockholders may from time to time determine, together with one to be appointed by the governor of the commonwealth, and one to be appointed by the mayor of the city of Boston; and the board thus created shall elect one of their number president, and such other officers as may be deemed necessary.

Proceedings
confirmed.

SECT. 2. The elections of directors, and other proceedings which have taken place at the annual meetings of said corporation which have been held in November, are hereby confirmed and made valid to the same extent as if said meetings had been held in October.

SECT. 3. This act shall take effect upon its passage.

February 21, 1876.

[1859, 173.]

1876. — CHAPTER 65.

AN ACT RELATING TO PUBLIC URINALS IN THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. The city of Boston, by vote of its city council, shall have power to erect and maintain urinals for public use in any street, way, court, public square, common, or common lands, in said city, and likewise in the public garden, so called, lying to the eastward of Arlington street therein. And any owner of land who suffers any injury in his property by reason of the construction of any urinal as aforesaid, may, at any time within one year after the construction is commenced, apply to the superior court for Suffolk county for assessment of his damages by a jury, and have his damages ascertained in the manner provided where land is taken in laying out highways.

Public urinals may be maintained in Boston by vote of city council.
130 Mass. 170.

SECT. 2. This act shall take effect upon its passage.

March 22, 1876.

1876. — CHAPTER 69.

AN ACT FOR THE BETTER PROTECTION OF LIFE IN BUILDINGS OCCUPIED FOR PUBLIC PURPOSES IN THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. Whenever it shall be reported to the inspector of buildings of the city of Boston, that any church, theatre, hall, or other building or structure, used or intended to be used temporarily or permanently for any public purpose, or any school-house or school-room public or private, within the city of Boston, is deficient in proper facilities of egress in case of fire or accident, either in the number, width, construction, or arrangement of the entrances, aisles, passage-ways, or stair-ways, or by reason of inner doors opening inward, or from any other cause whatever, arising from the manner of construction or repair of the premises, it shall be the duty of the said inspector of buildings to inspect the same, and if, in his judgment, they are so deficient, he shall notify the owner or owners, occupant, lessee, or other person, having charge thereof, and require of him or them such increased facilities of egress, as, in the judgment of the inspector, the security of the public in life and limb, in case of fire or accident, may require. The person or persons so notified shall be allowed forty-eight hours from the time of the service of the notice to begin the alterations required by the notice; and he or they shall employ sufficient labor to accomplish the same as expeditiously as may be. If he or they shall refuse or neglect to comply with the requirements of said notice as aforesaid, then a survey of the premises shall be made in the manner set forth in the thirteenth section of chapter two hundred and ninety-eight of the acts of the year eighteen hundred and seventy-three. Upon the report of the board of survey, if the same shall declare that said premises are deficient in proper facilities of egress in case of fire or accident, and upon the continued neglect or refusal of the owner or owners, occupant, lessee, or other person, having charge thereof, to provide the requisite increased facilities of egress, then it shall be lawful for the supreme judicial court to issue an injunction forbidding or limiting the use of the premises in such manner as the safety of the public or of persons using the same may require. Such owner or owners, occupant, lessee, or other person, having charge of the premises, shall likewise be liable to a penalty of not less than ten dollars nor more than fifty dollars, for every day's continuance of neglect or refusal to comply with the original notice

Churches, school-houses, etc., reported to be deficient in modes of egress in case of fire, to be examined by inspector of buildings.

Owner or occupant to make alterations when notified by inspector.

Supreme judicial court may enjoin owners, etc., from using premises, upon a report of a board of survey.

Penalty for neglecting to make necessary alterations.

of the inspector of buildings, to be recovered by the city of Boston in an action of tort.

Combustible materials in buildings, and obstructions in passage-ways to be made safe, upon order of the inspector.

SECT. 2. Whenever it shall appear to the inspector of buildings of the city of Boston that in any of the buildings or structures, or portions thereof, mentioned in the foregoing section, the security of the public is either temporarily or permanently endangered by the use of combustible stuff or materials, or that benches, chairs, stools, or other obstructions, are either temporarily or permanently placed in the aisles or passage-ways thereof, in such a manner as to prevent free egress in case of fire or accident, during the time when the same may be opened to the public, or that benches, chairs, or settees, are either temporarily or permanently so arranged as not to afford proper passage between them and sufficient egress in case of fire or accident, or that outer doors opening inward are not kept open when such buildings or structures are used by the public, the said inspector shall notify the owner or owners, lessee, occupant, or other person, having charge of the premises, and require him or them to make the premises safe, and if he or they shall refuse or neglect to do so, he or they shall be liable to a penalty of not less than fifty dollars nor more than five hundred dollars, for each offence, to be recovered by the city of Boston in an action of tort.

Penalty for neglect.

Outer doors opening inward, to be kept open while buildings are used by the public.

SECT. 3. All outer doors of buildings and structures mentioned in section one of this act shall be kept open when such buildings or structures are used by the public, unless such doors open outwards, and except that fly-doors, opening both ways, may be kept closed. All inner doors of such buildings and structures shall be made so as to open outwards.

Repeal of 1871, 280, § 60.

SECT. 4. Section sixty of chapter two hundred and eighty of the acts of the year eighteen hundred and seventy-one is hereby repealed.

SECT. 5. This act shall take effect upon its passage.

March 28, 1276.

1876. — CHAPTER 105.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO RECONSTRUCT DOVER-STREET BRIDGE, IN SAID CITY.

Be it enacted, etc.:

City of Boston may reconstruct and widen Dover-street bridge.

SECTION 1. The city of Boston is hereby authorized to repair, reconstruct and widen Dover-street bridge, so called, situated in said city, to a width not exceeding sixty feet; and may construct fender-guards, may change the location of the draw, and do such other acts as it may deem necessary, expedient, or convenient, in the premises, to secure a bridge and draw which shall safely and conveniently accommodate public travel and navigation; subject, however, to the provisions of chapter four hundred and thirty-two of the acts of the year one thousand eight hundred and sixty-nine.

P.S. 19, §§ 12, 13.

May take land, wharves, etc.

Damages.

SECT. 2. To secure and accomplish the objects and purposes of the preceding section, said city may take such lands, buildings, wharves, and structures, as it may deem necessary; and all damages to private property, or for land taken under this act, shall be ascertained, as provided in chapter forty-three of the general statutes.

April 6, 1876.

[1831, 71.]

1876. — CHAPTER 106.

AN ACT AUTHORIZING THE CITIES OF BOSTON AND CHELSEA TO RECONSTRUCT CHELSEA BRIDGE.¹

Be it enacted, etc.:

SECTION 1. The city of Boston shall have authority to reconstruct that part of Chelsea bridge now maintained by it, in the manner following, to wit: to increase the width of said bridge to sixty-six feet, so that it shall be thirty-three feet in width on each side of the centre of the present bridge; to fill solid to said width the portion between the Charlestown end in the former city of Charlestown, to the harbor commissioners' line, and also the portion between the southerly sea-wall of the filled land of the Boston and Lowell Railroad Company, and the northerly sea-wall of the flats and filled land of the Mystic River Corporation; to change the location of the draw therein, and to build suitable draw-piers and fenders, subject, however, to the provisions of chapter four hundred and thirty-two of the acts of the year one thousand eight hundred and sixty-nine. In constructing the portions to be filled solid, the city of Boston shall have the option of building retaining walls, or bulkheads, or of sloping the sides to such an extent as may be necessary to build the roadway of the bridge to the width of sixty-six feet.

City of Boston may reconstruct part of Chelsea bridge.

P.S. 19, §§ 12, 13.

SECT. 2. The city of Chelsea shall have authority to reconstruct that part of Chelsea bridge now maintained by it in the manner following, to wit: to increase the width of said bridge to the extent and in the manner hereinbefore authorized to be done by the city of Boston; to fill solid to said width such portion of said bridge from the Chelsea end towards the draw as the harbor commissioners shall determine and permit to be filled, to the depth of not less than ten feet above mean low-water mark; to construct solid retaining walls for that purpose on both sides of said bridge, and, if said city of Chelsea shall so elect, to slope the westerly side instead of constructing said solid retaining wall; to change the location of the draw-piers and to build suitable piers and fenders for said draw; all subject, however, to the provisions of said chapter four hundred and thirty-two.

City of Chelsea may reconstruct part of Chelsea bridge.

SECT. 3. To secure and accomplish the objects and purposes of the preceding sections, said cities may severally take such lands, buildings, wharves, and structures, as they deem necessary; and all damages to private property, or for land, buildings, wharves, or structures, taken under this act, shall be ascertained as prescribed in chapter forty-three of the general statutes, and be severally paid for by said cities: *provided, however,* that nothing herein contained shall be construed to compel payment for any land or property within the location of said bridge as originally laid out.

May take land, buildings, wharves, etc.

Proviso.

SECT. 4. Such city shall severally have the right to fill those portions of the bridge hereinbefore authorized to be filled solid, to the depth of ten feet above mean low water mark, with material taken from flats or marsh between high and low water mark at such place or places as shall be designated by the harbor commissioners, and in such case no other compensation for said filling shall be required from said cities.

Harbor commissioners to designate places where material may be taken for filling.

SECT. 5. Said cities of Boston and Chelsea are authorized, during the rebuilding of said bridge, to construct and maintain within their said respective limits, a footwalk; but they shall be subject to no liability for damages for any injury suffered by any person, while passing over said footwalk by reason of any defect therein.

Footwalk may be maintained while bridge is rebuilding.

¹ See Statutes and Ordinances (ed. 1876), p. 73.

Obligations to keep in repair not affected.

Temporary structure may be built for use of Lynn and Boston horse railroad.

Proviso.

Proviso.

SECT. 6. Nothing contained in this act shall affect any obligation existing on the part of any person or corporation to keep in repair any portion of the bridge, after the same shall have been rebuilt.

SECT. 7. Either of said cities is authorized to build a temporary structure, upon which the Lynn and Boston Horse Railroad Company may run its cars at its own risk, while said city is rebuilding any part of said bridge, or said railroad company may build and use said temporary structure itself, subject to the approval of the harbor commissioners: *provided*, that neither city shall be liable to any person or corporation by reason of maintaining said temporary structure, or by reason of any defect therein; and *provided, also*, that nothing contained in this section shall be construed to prohibit either city from closing said bridge, or any portion thereof, to public travel, whenever it shall become necessary in the construction thereof.

April 6, 1876.

[1878, 41; 1880, 159.]

1876. — CHAPTER 136.

AN ACT TO EMPOWER THE CITY OF BOSTON TO LAY AND MAINTAIN A MAIN SEWER DISCHARGING AT MOON ISLAND IN BOSTON HARBOR, AND FOR OTHER PURPOSES.

Be it enacted, etc.:

City of Boston may maintain a main sewer discharging at Moon island.

SECTION 1. The city of Boston shall have authority, in addition to the powers now possessed by it, for the purpose of laying and maintaining a main sewer running south-easterly from the direction of Charles river, to build and maintain wharves, pumping works, and reservoirs, for said sewer, on the main land, at or near the mouth of Neponset river, thence to conduct said sewer, by means of a siphon or tunnel under the bottom of the harbor, at or near the mouth of said river, to that part of the town of Quincy called Squantum, thence along or across said Squantum and the flats adjacent thereto; to Moon island. Said city shall also have authority to build and maintain a reservoir or reservoirs at Moon island, and other works essential to a proper and convenient discharge of the contents of said sewers. In any construction over tide-water said city shall be subject to the direction of the harbor commissioners in the manner pointed out in chapter four hundred and thirty-two of the acts of the year one thousand eight hundred and sixty-nine.

P.S. 19, §§ 12, 13.

May take lands, wharves, etc.

SECT. 2. The city of Boston shall have authority to take such lands, buildings, wharves, and structures, as may be necessary to accomplish the objects of the preceding section; and all damages to private property, or for lands, buildings, wharves, or structures, taken under this act, shall be ascertained as prescribed in chapter forty-three of the general statutes, and paid by the city of Boston.

Sewer may be used in common by Boston and Brookline, by agreement.

SECT. 3. The city of Boston and the town of Brookline may contract with each other for the use and support in common of the city sewer now constructed in Beacon street in Boston and leading into Charles river, and for the building by said town, at its sole expense, within the limits of said city, of a sewer about nine hundred feet in length from the town line to connect the town drains with such city sewer, and for the support, at the joint and equal expense of each, of the outlet of the sewer and the carrying the same out farther into Charles river if necessary; they may also contract with each other for the building and support in common of a new covered channel for Muddy river, such new channel to run from Tremont street along the line of division between said city and town and to empty into the pre-

Covered channel for Muddy river.

sent channel of Muddy river east of Aspinwall avenue; if it shall be necessary to take land for the purpose of carrying out the provisions of this section, said city and said town, each within its own territory, may take such land as may be necessary, and persons aggrieved by such taking shall have their damages ascertained and paid, and all the proceedings shall be conducted in conformity to the laws applicable to the laying out of town ways in said town, and highways in said city.

April 11, 1876.

[1879, 230; 1882, 256.]

1876. — CHAPTER 144.

AN ACT TO AMEND "AN ACT TO INCORPORATE THE BUTCHERS' SLAUGHTERING AND MELTING ASSOCIATION IN BRIGHTON."

Be it enacted, etc.:

SECTION 1. Section six of chapter three hundred and sixty-five of the acts of the year eighteen hundred and seventy is hereby repealed; and sections two and four of said act are hereby amended by striking out the words "state board of health" where they occur in said sections and substituting, in place thereof, board of health of the city of Boston.

Amendment to 1870, 365, § 6.

SECT. 2. From and after the first day of June in the year eighteen hundred and seventy-six, the business of slaughtering shall not be conducted within the limits of the city of Boston, except upon the premises of the Butchers' Slaughtering and Melting Association in said city.

Slaughtering to be done only at premises of association.

SECT. 3. The said association shall, within a reasonable time, slaughter all cattle, sheep, and calves, which may be brought to their premises for that purpose by persons not occupying tenements therein, whenever the accommodations under their control on said premises will permit. They shall also prepare the meat and other products of such animals for the market. They may charge, in addition to the offal from said animal, such price per head as may be mutually agreed upon; and in case of disagreement as to price, the same shall be fixed by the board of health of the city of Boston.

Association to slaughter all cattle, etc., brought to them.

SECT. 4. Said board of health of the city of Boston is hereby authorized to appoint one or more inspectors, to see that the rules and regulations for the conduct of the business of the association for the time being are fully obeyed by said association and their tenants, and also to see that none but healthy animals are slaughtered; the salary or salaries of said inspector or inspectors to be established by the city council of said city of Boston. The said inspector or inspectors shall at all times have access to the premises of said association and any building thereon, and also to the premises, yards, or cars, of any railroad company within the city of Boston, for the purposes of examination, inspection, and seizure, of any meat or animals unfit for human food.

Boston board of health to appoint inspectors.

SECT. 5. Said board of health of the city of Boston is hereby authorized to make whatever regulations may seem to them fit in order to prevent the slaughter and sale of animals unfit for human food.

To prevent slaughter of animals unfit for food.

April 17, 1876.

[1870, 365.]

1876. — CHAPTER 176.

AN ACT IN ADDITION TO CHAPTER THREE HUNDRED AND SEVENTY-ONE OF THE ACTS OF THE YEAR EIGHTEEN HUNDRED AND SEVENTY-TWO, RELATING TO THE REGULATION AND INSPECTION OF BUILDINGS IN BOSTON.

Be it enacted, etc.:

Party-walls of dwelling-houses in Boston.

SECTION 1. Party-walls of dwelling-houses not exceeding two stories nor twenty-five feet in height, and not exceeding twenty feet in width and forty feet in depth, in the city of Boston, outside the building limits of said city, may be built of brick, eight inches thick, and be carried twelve inches above the roof; and shall be corbelled at least six inches, or to the outer edge of all projections on the front and rear walls of the building, and be coped with stone or metal securely fastened; and where the roof is of the kind known as Mansard or French, the party-walls shall extend through the slope of the Mansard at least six inches distant from, and parallel with, the roof covering, and be corbelled at least six inches, or to the outer edge of all projections, and shall be coped with stone or metal, securely fastened. Any dwelling-house wall, not exceeding twelve feet in height from the foundation, and not within the building limits of said city, may be built of brick, eight inches thick.

Foundation-walls.

SECT. 2. Foundation walls of buildings, other than dwelling-houses, and not exceeding thirty-five feet in height, in the city of Boston, may be built of irregular rubble-stone, one-fourth thicker than block-stone walls: *provided*, that when such foundation walls are laid on piles, the lower course shall be of block-stone.

Repeal.

SECT. 3. All acts or parts of acts inconsistent herewith are hereby repealed.

April 26, 1876.

[1872, 371.]

1876. — CHAPTER 229.

AN ACT AUTHORIZING CERTAIN RAILROAD CORPORATIONS TO HOLD STOCK IN THE UNION FREIGHT RAILWAY COMPANY.

Be it enacted, etc.:

Railroad having terminus in Boston may purchase and hold stock in Union Freight Railway Company. Proviso.

SECTION 1. Any railroad company, now or hereafter, having a terminus in Boston, may purchase and hold stock in the Union Freight Railway Company: *provided*, that John D. Bates, at present a stockholder in the Union Freight Railway Company, or, in case of his decease, his personal representatives, may, at any time within one year from the passage of this act, tender to any corporation owning shares in said company, a valid transfer and conveyance of all his shares of stock, and that such corporation, upon such tender, shall pay to said Bates, or, in case of his decease, to his personal representatives, a sum of money equal to the par value of the shares of stock tendered as aforesaid: and *provided, further*, that said Union Freight Railway Company shall charge to, and receive of, corporations holding shares of its capital stock, no other rates and charges for carriage of freight than are charged to, and received of, other corporations and individuals.

Proviso.

Any railroad meeting Union Freight Railway may enter upon and use the same.

SECT. 2. Any railroad corporation whose road meets the road of the Union Freight Railway Company may, in the manner prescribed by the board of aldermen of Boston, enter upon, unite its road with, and use the road of, the Union Freight Railway Company, for the transportation of freight; in which case, both corporations shall be

subject to the provisions of sections one hundred sixty-five, one hundred sixty-six, and one hundred sixty-seven, of chapter three hundred and seventy-two of the acts of the year eighteen hundred and seventy-four; and all the other provisions of said chapter applicable to freight railways and regulating rates of freight and freight accommodations for the public shall be applicable to the Union Freight Railway Company. The cars on said road may be drawn by steam power, subject to the approval of the board of aldermen.

SECT. 3. Nothing in this act contained shall be construed as affecting the legal rights of the Commercial Freight and Marginal Freight Railway Companies. Rights of Commercial Freight and Marginal Freight Railways not affected. Repeal.

SECT. 4. The second section of chapter three hundred and forty-two of the acts of the year eighteen hundred and seventy-two is hereby repealed; and the third section of said chapter is amended by striking out the word "five" and inserting instead thereof the words "three and a half."

SECT. 5. This act shall take effect upon its passage.

[1872, 342; 1873, 235.]

1876. — CHAPTER 242.

AN ACT RELATING TO THE DIVISION OF WARD TWENTY-TWO OF THE CITY OF BOSTON, INTO TWO WARDS.

Be it enacted, etc.:

SECTION 1. The city council of the city of Boston shall immediately, upon the passage of this act, proceed to divide the ward now numbered twenty-two in said city, into two wards, to be known as ward twenty-two and ward twenty-five, and to prescribe a place in each ward in which elections shall be held. Ward twenty-two in Boston to be divided into two wards.

SECT. 2. Upon such division the tenure of office of the ward officers in ward twenty-two, as at present existing, shall expire, and the mayor and aldermen shall appoint, from the legal voters of each ward, ward officers to hold their several offices until the first Monday of January next succeeding such division; and such offices, for the year thereafter ensuing, and every succeeding year, shall be filled in the manner provided by law with respect to ward officers in the city of Boston. Ward officers to be appointed.

SECT. 3. At the municipal election next succeeding such division the qualified voters of said new ward twenty-two shall carry in their votes for two able and discreet men, qualified voters and inhabitants in said ward, to be members of the common council for the ensuing year, and at said election the qualified voters of said new ward twenty-five shall carry in their votes for one able and discreet man, a qualified voter and inhabitant in said ward, to be a member of the council for the ensuing year. At the municipal election next succeeding, said new ward twenty-two shall be entitled to elect one, and said new ward twenty-five two, members in the manner aforesaid and qualified as aforesaid, and said wards shall thereafter alternately elect one and two members of the common council as hereinbefore set forth. Elections shall be conducted and records thereof kept in the manner provided in section two of chapter two hundred and forty-three of the acts of the year eighteen hundred and seventy-five: *provided*, that nothing contained in this act shall effect the tenure of office of the present members of the common council from ward twenty-two. Common councilmen.

SECT. 4. Ward twenty five shall constitute a part of the eighth congressional and eighth Suffolk senatorial districts. Congressional and senatorial district.

SECT. 5. This act shall take effect upon its passage.

April 28, 1876.

[1875, 243.]

1876. — CHAPTER 246.

AN ACT RELATING TO WARD OFFICERS IN THE CITY OF BOSTON.

Be it enacted, etc. :

Three inspectors
of elections to be
appointed for
each ward.

SECTION 1. The mayor of the city of Boston shall, prior to the first day of November in the present year, with the approval of the board of aldermen of said city, appoint for each ward of said city, three inspectors of elections, who shall be qualified voters and inhabitants in such ward. One of said inspectors shall hold his office for one year, one for two years, and one for three years, from said first day of November; and in each year after the present, the said mayor shall, before the first day of November, and with the approval of said board, appoint for each ward one inspector of elections, who shall be a qualified voter and inhabitant in such ward, and shall hold office for three years from the first day of November then next succeeding.

May be removed
at any time.

Any such inspector may be at any time removed from office by said mayor, with the approval of said board, and any vacancy occurring in the office of said inspectors shall be filled, for the residue of the term of the inspector whose place is to be filled, by appointment and approval as above provided.

To be sworn.

SECT. 2. Said inspectors of elections, before entering upon the duties of their office, shall take and subscribe an oath faithfully and impartially to discharge such duties; which oath may be administered by the city clerk, or by his assistant, or by any justice of the peace, and a record made thereof in the office of said city clerk.

Warden, clerk,
etc., to be
elected.

SECT. 3. The qualified voters of each ward in said city, at the municipal election to be held in December next, and at each annual municipal election thereafter, shall choose by ballot one warden, one clerk, and three inspectors of elections, each of whom shall be a qualified voter and inhabitant in such ward, and shall hold his office for one year, and until another shall be chosen and qualified in his stead, unless he shall sooner vacate his office in the manner hereinafter set forth.

To be sworn.

SECT. 4. The said wardens, clerks, and inspectors, shall respectively make oath faithfully and impartially to discharge their several duties, which oath may be administered by the clerk to the warden, and by the latter to the clerk and inspectors, or to any or all of said officers by the city clerk, or by his assistant, or by any justice of the peace; and a certificate thereof shall be entered in the record to be kept by the ward clerk.

In case of non-
election, new
election to be
held.

SECT. 5. In case of the non-election of any of said officers, at the annual municipal election, the board of aldermen of said city may issue their warrant in due form for an election to be held at such time and place as said board may deem advisable.

In case of ab-
sence, officer
pro tem. may be
elected by hand-
vote.

SECT. 6. In case of the absence of any ward officer at any ward meeting, such officer may be chosen *pro tempore* by hand vote, and shall have all the powers, and be subject to all the duties, of the regular officer, at such meeting. The person so elected, before entering upon the duties of his office, shall take the oath as hereinbefore provided.

Warden to pre-
side and have
powers of mod-
erators.

SECT. 7. The warden shall preside at all meetings of his ward, and shall have the powers of moderators of town meetings. In case of his absence, the clerk, and in case of the absence of both warden and clerk, one of the elected inspectors, according to seniority in age, shall preside until a new warden has been chosen.

Clerk to keep
records, etc.

SECT. 8. It shall be the duty of the clerk to make and keep a fair and true record of all meetings, and at the expiration of his term of office to deliver such record, together with all other documents and papers held by him in his said capacity, to the city clerk, by whom such of them as need be shall be transmitted to the next ward clerk.

SECT. 9. It shall be the duty of the warden and inspectors to receive, sort, and count, and of the warden to declare, all votes at any election within such ward; and the clerk may assist in assorting and counting the votes.

Warden and inspectors to receive, sort, and count, votes.

SECT. 10. It shall be the duty of all ward officers named in this act to attend and perform their respective duties at the times and places appointed for elections of any officers, whether of the United States, state, city, or wards, or for the determination of any question submitted to the qualified voters by lawful authority; and to make and sign the returns of the same.

Ward officers to make and sign returns.

SECT. 11. The wardens, clerks, and inspectors of elections, shall receive such compensation for each day's actual service as the city council of said city may from time to time determine, and shall be subject to the penalties to which such ward officers are subject under general laws.

Compensation.

SECT. 12. The registrars of voters of said city shall provide for each ward therein a sufficient number of suitable ballot-boxes. No ballots shall be received at any election, until the full number of ward officers as herein before prescribed has been completed, nor unless the warden, clerk, and at least two of the appointed inspectors, and two of the elected inspectors, are present, nor until each of said ward officers who is present has ascertained by personal examination that the ballot-boxes are empty. While an election is going on, each ballot-box shall be in immediate charge of two inspectors, one from the appointed inspectors and one from the elected inspectors, during the whole time that ballots are received in that box.

Ballot-boxes to be provided by registrars of voters.

Each box to be in charge of two inspectors.

SECT. 13. The wardens and clerks who were elected in the several wards at the municipal election held in December, eighteen hundred and seventy-five, shall hold their offices as such, and act at meetings which may be held in said wards prior to and including the next municipal election; and such of the inspectors of elections in each ward as were elected at said municipal election, or so many of them as may be present, shall likewise hold their offices as such, and act at the meetings which may be held in said wards prior to and including the next municipal election, notwithstanding their number may exceed three; but if any vacancies occur in their number, such vacancies shall not be filled unless the same is required to complete the number of three elected inspectors, and said vacancies shall be filled in the manner provided in section six of this act.

Ward officers elected in December, 1875, to serve at next municipal election.

SECT. 14. Sections seven, eight, nine, ten, eleven, twelve, thirteen, and fourteen, of chapter four hundred and forty-eight of the acts of the year eighteen hundred and fifty-four, and all other acts, and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

Repeal.

April 28, 1876.

[1854, 448, §§ 7, 14; 1874, 60; 1878, 243; 1879, 163; 1880, 225; 1881, 221, 291.]

1877. — CHAPTER 5.

AN ACT TO AMEND SECTION ELEVEN OF CHAPTER ONE HUNDRED AND SIXTY-SEVEN OF THE ACTS OF THE YEAR EIGHTEEN HUNDRED AND FORTY-SIX, RELATING TO SUPPLYING THE CITY OF BOSTON WITH PURE WATER.

Be it enacted, etc. :

SECTION 1. Section eleven of chapter one hundred and sixty-seven of the acts of the year eighteen hundred and forty-six is hereby amended by striking out the words "mayor, treasurer, and auditor, of the city, or the major part of them for the time being," and inserting

Amendment to 1846, 167, § 11.

instead thereof the words "board of commissioners on the sinking-funds for the payment or redemption of the city debt, as constituted by ordinance of said city."

SECT. 2. This act shall take effect upon its passage.

February 6, 1877.

[1846, 167.]

1877. — CHAPTER 11.

AN ACT TO AMEND "AN ACT TO AUTHORIZE THE CITY OF BOSTON TO CONSTRUCT A SEWER IN THE MYSTIC VALLEY."

Be it enacted, etc.:

Amendment to
1875, 202, § 1.

SECTION 1. Section one of chapter two hundred and two of the acts of the year eighteen hundred and seventy-five is hereby amended by striking out the words "and on the easterly side of the ponds and streams which discharge into said Mystic pond." Section seven of said act is amended by striking out the words "to the northward and eastward of said system of sewers of the city of Boston, and."

SECT. 2. This act shall take effect upon its passage.

February 16, 1877.

[1875, 202.]

1877. — CHAPTER 53.

AN ACT TO INCORPORATE THE BOSTON SCHOOL COMMITTEE.

Be it enacted, etc.:

School commit-
tee incorpo-
rated.

SECTION 1. The school committee of the city of Boston for the time being is hereby made a corporation by the name of The School Committee of the City of Boston, and said committee and its successors in office, elected according to law in said city, shall continue a body corporate, for the purposes hereinafter set forth, with all the powers and privileges, and subject to all the duties, restrictions, and liabilities, set forth in all general laws which now are, or may hereafter be, in force relating to such corporations.

Real and per-
sonal estate.

SECT. 2. Said corporation shall have authority to receive and hold all sums of money, and real and personal estate not exceeding in the aggregate the value of two hundred thousand dollars, which money may be given, granted, bequeathed, or devised, to it for the benefit of the teachers in the public schools of the city of Boston, or their families, requiring charitable assistance, or for the benefit of any persons, or the families of any persons, who have formerly been such teachers, requiring charitable assistance. It shall have power to manage and dispose of the same according to its best discretion, and to execute any and all trusts according to the tenor thereof, which may be created for the purposes aforesaid.

Charlestown
school trust
fund.
1873, 286, § 12.

SECT. 3. Said corporation shall likewise be entitled to receive from the members of the school committee within the present limits of that part of the city of Boston which was formerly the city of Charlestown, the fund known as the Charlestown school trust fund, and shall hereafter manage said fund and disburse the income thereof, within the limits of the former city of Charlestown, according to the tenor of the instruments creating said trust.

March 18, 1877.

[1873, 286; 1875, 241.]

1877. — CHAPTER 116.

AN ACT TO AMEND SECTION ONE OF CHAPTER TWO HUNDRED AND THIRTY-FOUR OF THE ACTS OF THE YEAR EIGHTEEN HUNDRED AND FORTY-SEVEN, ESTABLISHING REGULATIONS CONCERNING BOSTON HARBOR.

Be it enacted, etc. :

SECTION 1. Section one of chapter two hundred and thirty-four of the acts of the year eighteen hundred and forty-seven, is hereby amended by striking out the words "easterly side of Tuttle's Wharf," and inserting instead thereof the words "Meridian Street Bridge."

Amendment to
1847, 234.

SECT. 2. This act shall take effect upon its passage.

April 9, 1877.

[1847, 234.]

1877. — CHAPTER 144.

AN ACT TO AUTHORIZE THE CITY OF NEWTON TO LAY AND MAINTAIN A MAIN DRAIN IN BOSTON.

Be it enacted, etc. :

SECTION 1. The city of Newton is hereby authorized, by its mayor and aldermen, or by a board of three commissioners to be chosen by its city council, to lay and construct a main drain or common sewer on the southerly side of Charles river, through a portion of the Brighton district of the city of Boston to a point in the deep water of said river near the Faneuil station on the Boston and Albany railroad, and opposite the United States arsenal in Watertown, for the purpose of discharging the sewage of the city of Newton into said river; and such main drain, and the works hereinafter mentioned, shall be the property and under the exclusive control of the city of Newton, which shall keep and maintain the same in good order and condition.

City of Newton
may lay sewer
through
Brighton dis-
trict to Charles
river.

SECT. 2. The city of Newton may also construct and maintain, at or near the place of discharge of said sewer, such drainage works as it may deem necessary; but said sewer or works shall be so constructed as not to interfere with the navigation of said river or to create a public nuisance.

May maintain
drainage works.

SECT. 3. The city of Newton may take such lands and buildings as may be necessary to accomplish the purposes of this act, and all damages sustained thereby shall be paid by the city of Newton, and the same may be ascertained and recovered in the manner now provided by law for the assessment of damages in the laying out of highways in the city of Boston.

May take land
and buildings.

SECT. 4. The city of Newton may construct such drain or sewer over or under any water-course, highway, town way, railroad, or other way, may change the course of any brook, may enter upon and dig up the same for the purpose of constructing and maintaining such drain or sewer, and may do all such other acts as may be necessary to accomplish the work hereby authorized; but said city shall not unnecessarily interrupt public travel in the doing of said work, and the supreme judicial court in any county, or any justice thereof in term time or vacation, upon complaint of the mayor or aldermen of Boston, or of any corporation whose rights are invaded, may direct the method of performing such work as may affect public travel, public rights, or public health, and enforce such directions and orders by injunction or other suitable process.

May construct
sewer over or
under water-
course or town-
way.

Supreme court
may direct
method of per-
forming the
work.

City of Newton
to indemnify
and save harm-
less the city of
Boston.

SECT. 5. Whenever the city of Newton shall dig up any highway, street, or way, it shall restore the same to as good order and condition as the same was in when such digging commenced. And the city of Newton shall at all times indemnify and save harmless the city of Boston of and from all damages which may be sustained by it by reason of any defect or want of repair in any street or way, caused by the construction, maintenance, or repair, of said drain or sewer.

May construct
sewer under
railroad.

SECT. 6. The city of Newton may, within its corporate limits, construct any main drain or common sewer under any railroad, and maintain and repair the same; and it shall be liable to the corporation owning such road for all damages thereby sustained by it, to be recovered in an action of tort.

Provisions of
law to apply.

SECT. 7. The provisions of the fourth, fifth, sixth, and seventh, sections of chapter forty-eight of the general statutes, and all other general laws, shall apply to said main drain or common sewer, so far as applicable; but no assessment shall be laid on any property outside the limits of said Newton.

SECT. 8. This act shall take effect upon its acceptance by the city council of the city of Newton.

April 20, 1877.

1877. — CHAPTER 217.

AN ACT TO ENABLE THE CITY OF BOSTON TO ABATE A NUISANCE EXISTING THEREIN, AND FOR THE PRESERVATION OF THE PUBLIC HEALTH IN SAID CITY, AND FOR OTHER PURPOSES.

Be it enacted, etc. :

City may take
land to abate a
nuisance.

SECTION 1. The city of Boston may purchase, or otherwise take, for the purpose of abating the nuisance now existing in and about the Roxbury Canal, so called, the land and easements, with the buildings and other fixtures thereon, situate and lying within the district hereinafter bounded and described, to wit: — commencing at the junction of Harrison avenue and the northerly line of East Chester park, and thence running by said northerly line of East Chester park produced in an easterly direction across the said Roxbury Canal to Swett street, thence by the northerly line of Swett street to Northampton street, thence by the northerly line of Northampton street to Harrison avenue, and thence by the easterly line of Harrison avenue to the point of beginning. Said city shall, within sixty days from the time it shall take said lands or easements, file in the office of the registry of deeds for the county of Suffolk, a description of the lands or easements so taken as certain as is required in a common conveyance of lands, and a statement that the same are taken pursuant to the provisions of this act; which said description and statement shall be signed by the mayor of said city, and the title to all lands and easements so taken shall vest in the city of Boston, and if any party whose land or easement is taken, shall agree with the said city upon the damage done to him by the said taking, the same shall be paid to him by the said city forthwith. And it shall be the duty of the city of Boston forthwith to raise the grade of said territory so purchased or taken, by filling up the same, including that portion of the Roxbury Canal lying within the described district, with good clean earth or gravel, and with reference to a complete drainage thereof, so as to abate the present nuisance, and to preserve the health of the city.

To file in reg-
istry of deeds a
description of
the land taken.

Complainant for
damages may
file bill in equity
in supreme judi-
cial court.

SECT. 2. Any person entitled to any estate or easement in any part of the lands so taken, may, at any time within one year from the time when the same shall be taken, as well in his own behalf as in

behalf of all other persons having estates in the lands or easements so taken, file a bill in equity in the supreme judicial court in the county of Suffolk, setting forth the taking of the complainant's land or easement by the city of Boston, and whether the complainant claims any and what damages against the city of Boston for said taking, and against said city or any other corporation or persons by reason of any and what wrongful act or omission by their causing a diminution in the value of his land or easement at the time of said taking, and praying an assessment of damages against the city of Boston for said taking, and against such parties for said diminution. And upon the filing of such a bill said court shall cause notice of the pendency of said bill to be given to the parties named therein as defendants, according to the course of courts of equity; and also public notice thereof to all persons in whose behalf such bill shall be filed, to appear and become parties thereto if they shall see fit to do so. Said court shall prescribe how such public notice shall be given, and what length of time shall be allowed for appearing and becoming a party to such suit. Any party failing so to appear and to become a party within the time prescribed by the court, shall be forever barred from recovering any damages on account of such taking. Each person so appearing and becoming a party shall file a written description of the land in which he claims an estate, together with a plan thereof, so as clearly to distinguish the same from all other lands, and shall also declare what estate he claims therein. If he claims that the value of said land or easement at the time of taking the same was lessened by any unlawful act or omission of the city of Boston or any other corporation or person, so that the value of the land or easement in its condition when taken would not be a just compensation for all the estate and rights of the party in, and in reference to, the same, such party shall also state what such injury is, and how and by whom the same had been or is caused, and what right or title of the party is violated.

SECT. 3. Upon the expiration of the time allowed for appearance to the said bill, the said court shall appoint three commissioners, who shall receive such compensation as the said court shall fix, to be paid by the city of Boston.

Commissioners may be appointed, to be paid by the city.

SECT. 4. It shall be the duty of the said commissioners, after due notice, to hear each of the said parties including the said city of Boston, and other parties named as defendants, and to assess and award the value at the time of the taking of each parcel of the said land, and of any easement claimed by any party so appearing, which shall be taken by said city; and the amount in gross, if any, of damages done to such parcel of land, or such easement, by reason of any unlawful act or omission of the city of Boston or any other party defendant, affecting its value at the time of said taking. And the said commissioners shall make, or cause to be made, a survey of the lands of the complainant and other parties to such bill, and of all other lands adjacent, and owned by other parties whose rights may be affected in determining the lines of such complainants' lands; and said commissioners shall determine the boundary lines of all such lands within said district, and report to the court the boundaries established for each owner of such lands, with a plan of the several portions of land within said district, showing the lines established for each owner, which plan, after its approval shall, by order of the court, be recorded in the registry of deeds for the county of Suffolk.

To hear the parties and assess damages.

SECT. 5. Said commissioners, or the major part of them, shall, within three months after said hearing, make report to the said court of their doings, and, when requested by any party, of the evidence touching any exception intended to be taken by him.

To report to court within three months.

Party aggrieved
may apply for
jury.

SECT. 6. Any party aggrieved by any findings or doings of said commissioners, may apply for a jury to revise the same, by petition to the supreme judicial court at the same term thereof at which said commissioners shall make their report, and, thereupon, said court shall order a trial by jury to be had at the bar of the court in the same manner in which trials are held in the superior court to assess the damages for land taken for the laying out of highways in the county of Suffolk. And any party aggrieved by any ruling of law made by said commissioners or by said court may except to said ruling and have the exceptions heard and determined by the said court sitting in banc according to its course as a court of equity.

Damages to be
assessed as in
taking land for
highways.

The respective rights and remedies of persons having different or separate interests or estates in the same property, as to the disposition of the damages awarded or agreed to under this act, and the manner of assessing damages for the taking of such property, shall be, in all respects, the same as they now are in the case of property taken for laying out highways.

When amount of
damage is ascer-
tained, execu-
tion to issue.

SECT. 7. When it shall be finally determined what amount of damages any party is entitled to recover against the city of Boston, or any other party defendant, a separate decree shall be entered accordingly, and execution therefor shall be issued without regard to the pendency of the claims of any other party or parties.

Costs, when a
jury trial is had.

SECT. 8. If any party shall apply for and obtain a trial by jury, he shall recover his legal costs if the award of the commissioners shall be altered in his favor; otherwise he shall be liable for the legal costs of the other party or parties.

Liability of city
for damages
caused by
raising territory.

SECT. 9. Nothing in this act shall be construed as exempting the city of Boston from any obligation, it would otherwise be under, to make compensation to the owners of lands abutting on or near to the territory described in the first section of this act, for any injury it may do to such lands in any acts of raising, filling or draining, said territory or any part thereof.

Court may
make all neces-
sary orders and
decrees.

SECT. 10. Said court may make all orders and decrees necessary to carry into effect the intent of this act, and may, at its discretion, at any stage of the proceedings, order a party to give security for the payment of damages or costs.

Costs to be paid
as court shall
order.

SECT. 11. All legal costs which shall accrue in the proceedings under this act, not otherwise provided for, shall be paid as the said court shall order.

City may lay
railway tracks
through streets.

SECT. 12. The city of Boston is hereby authorized to lay railway tracks through any street or streets of said city and across tide-water, and to maintain them, so long as it may be necessary, to enable them to transport earth and other materials to fill up the district aforesaid, under the provisions of this act.

Lands to be
taken within
two years.

SECT. 13. All lands or easements taken under this act, otherwise than by purchase, shall be taken within two years, and all filling and grading done under this act shall be done within three years, from the passage thereof.

Sewers and
drains to be dis-
charged
elsewhere.

SECT. 14. On and after the completion of the work to be performed under this act, the sewers or drains now discharging into said canal within the limits of that portion thereof authorized to be filled, shall be discharged elsewhere, and shall not thereafter be discharged into any part of said canal.

SECT. 15. This act shall take effect upon its passage.

May 11, 1877.

1877. — CHAPTER 222.

AN ACT TO INCORPORATE THE OLD SOUTH ASSOCIATION IN BOSTON, AND TO PROVIDE FOR THE PRESERVATION OF THE OLD SOUTH MEETING-HOUSE.

Be it enacted, etc. :

SECTION 1. The governor of the commonwealth, the mayor of the city of Boston, the president of Harvard college, the president of the Massachusetts historical society, the president of the American antiquarian society, and the president of the New England historic-genealogical society, *ex officio*, and William Gaston, John Lowell, Samuel E. Sewall, Edmund Quincy, Samuel A. Green, Henry Lee, Martin Brimmer, and John D. Long, and their associates and successors, are hereby made a body corporate by the name of the Old South Association in Boston, for the purpose of acquiring and holding the Old South Meeting-house in Boston and the land under and adjacent to the same, upon the corner of Milk street and Washington street in said city, for public, historical, memorial, educational, charitable, and religious, uses and none other, with all the powers and privileges, and subject to all the duties, liabilities, and restrictions, set forth in chapter sixty-eight of the general statutes, and acts in addition thereto. Said corporation shall have the power to take and appropriate to the uses of said corporation, said meeting-house and land or any interest therein: *provided*, that in case it shall exercise said power, it shall, within sixty days from the time of said taking and appropriation, file in the registry of deeds for the county of Suffolk a description of the premises so taken, as certain as is required in a common deed of conveyance of land; and any party aggrieved thereby shall have the right to apply for a jury to assess the damages sustained by him, in the manner and with the effect provided in the seventy-ninth section of chapter forty-three of the general statutes, and upon the payment of all damages so assessed to the parties entitled thereto, or upon the failure to apply for a jury during the time limited by law, the title to said meeting-house and land shall vest in said corporation. And said corporation shall also have power, until the foregoing powers are exercised, to take a lease of said meeting-house and land, or the interest so taken, and hold the same thereunder for the purposes aforesaid.

Corporators.

Name and purpose.

Powers and duties.

To file in registry of deeds a description of the land taken.

SECT. 2. The officers of said corporation shall consist of a board of managers, the number of which shall be fixed by the by-laws, and of which the six first named in this act shall be members *ex officio*, and two shall be elected annually by the city council of the city of Boston, and the rest shall be elected by the members of the corporation; and said managers shall elect one of their number president, and shall also elect a secretary and a treasurer. All officers shall hold over until others are chosen in their stead. New members may be admitted in such manner as the by-laws shall provide.

Board of managers.

Admission of members.

SECT. 3. Said corporation may make contracts with the commonwealth for the use of said meeting-house for the annual election sermon, and with the commonwealth or the city of Boston for its use for any public purposes not inconsistent with the provisions of this act.

Building may be used for certain purposes.

SECT. 4. Said meeting-house and land shall be exempt from taxation while said meeting-house shall be used for any of the purposes aforesaid, and shall be exempt from any tax for the year eighteen hundred and seventy-seven.

To be exempt from taxation.

SECT. 5. This act shall take effect upon its passage.

May 11, 1877.

1877. — CHAPTER 228.

AN ACT IN RELATION TO THE BOARD OF STREET COMMISSIONERS OF THE CITY OF BOSTON.

Be it enacted, etc.:

Street commissioners may be invested with powers now exercised by board of aldermen in care of streets, etc.

SECTION 1. The city council of the city of Boston is hereby authorized to delegate to and confer upon the board of street commissioners of said city any powers now vested in the board of aldermen, whether in conjunction with the mayor, or otherwise, with reference to the care, maintenance, and repair, of the highways, streets, causeways and bridges in said city, or any powers now vested in or exercised by the board of aldermen of said city, as surveyors of highways therein. It may likewise delegate to said board of street commissioners the powers vested in said board of aldermen, whether in conjunction with the mayor, or otherwise, to regulate, restrict, and control, the acts and doings of all gas-light companies, in sinking, laying, and repairing, their pipes in the streets, lanes, and highways, in said city.

May be charged with powers in relation to sewers.

SECT. 2. The city council of the city of Boston is hereby authorized to delegate to, and confer upon, the board of street commissioners of said city any powers now vested in the board of aldermen, whether in conjunction with the mayor, or otherwise, to lay, make, maintain, and repair, main drains and common sewers within said city, and to assess upon persons by law liable thereto, their proportional part of the charge of laying, making, and repairing, the same, together with all other powers with reference to said main drains and common sewers, now vested in or exercised by said board of aldermen, whether in conjunction with the mayor or otherwise.

City council may direct limitations of powers delegated.

SECT. 3. The city council of the city of Boston may direct under what limitations and restrictions the powers, herein authorized to be delegated to, and conferred upon, the board of street commissioners of said city, shall be exercised, may modify said powers from time to time, or may revoke the same or any of them.

SECT. 4. This act shall take effect upon its acceptance by the city council of the city of Boston.¹

May 15, 1877.

[1870, 337.]

1878. — CHAPTER 41².

AN ACT CONCERNING THE MAINTENANCE OF CHELSEA BRIDGE.

Be it enacted, etc.:

Maintenance of bridge.

Draw and draw-piers.

Liability for damages.

SECTION 1. The city of Chelsea shall maintain and repair that portion of Chelsea bridge over Mystic river, lying north-easterly of the north-easterly draw therein; and the city of Boston shall maintain and repair that portion of said bridge lying south-westerly of said draw; and said draw, together with the draw-piers, shall be maintained and repaired equally by said cities.

SECT. 2. Said cities shall be respectively liable for damages resulting from defects in the portion of said bridge which by this act they are severally required to maintain and repair.

SECT. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

SECT. 4. This act shall take effect upon its passage.

March 7, 1878.

[1876, 106; 1880, 159.]

¹ This act has not yet been accepted.

² P.S. c. 22, § 8, substituted. See *post*, p. 320.

1878. — CHAPTER 45.

AN ACT TRANSFERRING TO THE CITY COUNCIL OF THE CITY OF BOSTON THE POWERS NOW VESTED IN THE BOARD OF ENGINEERS OF SAID CITY, RELATING TO EXPLOSIVE COMPOUNDS AND OTHER DANGEROUS SUBSTANCES.

Be it enacted, etc. :

SECTION 1. All powers and duties conferred by existing statutes upon the engineers or board of engineers of the fire department of the city of Boston, or upon any member of said board, are hereby transferred to the city council of said city; and said powers and duties may be exercised and carried into effect by said city council in such manner as it may from time to time prescribe, and through the agency of any persons, board, or boards, to whom it may from time to time delegate the same.

Powers of engineers of fire department transferred to city council.

R.O. c. 21.

SECT. 2. This act shall take effect upon its passage.

March 11, 1878.

[1817, 171; 1850, 262; 1853, 154; P.S. 102, § 54, *et seq.*]

1878. — CHAPTER 75.

AN ACT CONCERNING THE RELOCATION OF STREETS AND WAYS IN THE CITY OF BOSTON.

Be it enacted, etc. :

SECTION 1. Whenever the board of street commissioners of the city of Boston deem it necessary to locate anew a street or way in said city, either for the purpose of establishing the boundary lines of such street or way, erecting monuments thereon, or of making alterations in the course or width thereof, they may so locate such street or way by giving notice, and proceeding in the manner prescribed by law for laying out streets or ways in said city.

Relocation of streets and ways.

SECT. 2. Any person sustaining damage in his property by the location of a street or way, as provided in the preceding section, shall have his damages assessed and paid in accordance with the provisions of law in respect to laying out, altering, and discontinuing, streets and ways in the city of Boston.

Assessment of damages.

SECT. 3. This act shall take effect upon its passage.

March 21, 1878.

[1870, 337.]

1878. — CHAPTER 78

AN ACT CONCERNING SHELL-FISH ON THE SHORES AND FLATS OF THOMPSON'S ISLAND.

Be it enacted, etc. :

SECTION 1. Whoever takes any shell-fish from the shores or flats of Thompson's island, in Boston harbor, without the permit of the managers of the Boston asylum and farm school for indigent boys, or the chief of the police of the city of Boston, shall, for every offence, pay a fine of not less than five dollars or more than ten dollars, and costs of prosecution; said fine to be recovered by complaint before the municipal court of the city of Boston.

Shell-fish not to be taken from Thompson's island without permit.

SECT. 2. Any constable or police officer of the city of Boston may, without a warrant, arrest any person whom he finds in the act of taking

Offender may be arrested without a warrant.

shell-fish in violation of the provisions of the preceding section of this act, or in the act of carrying away shell-fish so taken, and detain him in some place of safe-keeping until a warrant can be procured against such person upon a complaint for said offence: *provided*, that such detention shall not exceed twenty-four hours.

March 23, 1878.

1878. — CHAPTER 114.

AN ACT TO INCORPORATE THE TRUSTEES OF THE PUBLIC LIBRARY OF THE CITY OF BOSTON.

Be it enacted, etc.:

Trustees of the public library incorporated.

SECTION 1. The trustees of the public library of the city of Boston, for the time being, are hereby made a corporation by the name of the Trustees of the Public Library of the City of Boston; and said trustees and their successors in office shall continue a body corporate for the purposes hereinafter set forth, with all the powers and privileges, and subject to all the duties, restrictions, and liabilities, in the general laws relating to such corporations.

May hold real and personal estate not exceeding \$1,000,000.

SECT. 2. Said corporation shall have authority to take and hold real and personal estate to an amount not exceeding one million dollars, which may be given, granted, bequeathed, or devised, to it, and accepted by the trustees, for the benefit of the public library of the city of Boston, or any branch library, or any purpose connected therewith. Money received by it shall be invested by the treasurer of the city of Boston under the direction of the finance committee of said city; and all securities belonging to said corporation shall be placed in the custody of said treasurer: *provided, always*, that both the principal and income thereof shall be appropriated according to the terms of the donation, devise, or bequest, under the direction of said corporation.

Investments.

Proviso.

Trustees to be seven in number.

SECT. 3. The trustees of the public library shall be seven in number. In the month of April, in the year eighteen hundred and seventy-eight, and annually thereafter, in the month of January, the city council shall elect, by concurrent vote of the two branches, one member of the board of aldermen, and one member of the common council, to be members of said board of trustees, to hold office during the remainder of the municipal year in which they are elected, and until others are elected in their places. And in the month of April, in the year eighteen hundred and seventy-eight, the mayor shall appoint, subject to the confirmation of the city council, five citizens of Boston, not members of the city council, to be members of the board of trustees of the public library, one of whom shall hold office for five years, one for four years, one for three years, and one for two years, and one for one year; and, upon such election, and such appointment and confirmation, the terms of office of the trustees of the public library then holding office, shall cease and determine. And annually thereafter, in the month of April in each year, the mayor shall appoint, subject to the confirmation of the city council, one citizen at large, as a trustee of the public library, to serve for a term of five years from the first Monday in May in the year in which he shall be appointed. The trustees shall at all times be subject to removal from office for cause, by a vote of two-thirds of each branch of the city council present and voting thereon. Whenever any vacancy shall occur in said board of trustees by death, resignation, or otherwise, said vacancy shall be filled by the election, or appointment, in the manner aforesaid, of another trustee, who shall hold office for

Appointment.

Removal from office.

the residue of the unexpired term. No member of said board of trustees shall receive any pecuniary compensation for his services.

SECT. 4. The members of said board shall meet for organization on the first Monday of each May, and choose one of their number as president. They shall have power to make such rules and regulations relating to said public library and its branches, and its officers and servants, and to fix and enforce penalties for the violation of such rules and regulations, as they may deem expedient: *provided*, that the same shall not be inconsistent with the provisions of this act, and shall be subject at all times to such limitations, restrictions, and amendments, as the city council may direct.

Organization of board of trustees.

SECT. 5. The said trustees shall have the general care and control of the central public library now located in Boylston street in said city, and of all branches thereof, which have been, or which may hereafter be, established, together with the buildings and rooms containing the same, and the fixtures and furniture connected therewith, and also of the expenditures of the moneys appropriated therefor.

Trustees to have care and control of the central library and its branches.

SECT. 6. The said board of trustees may appoint a superintendent or librarian with such assistants and subordinate officers as they may think necessary or expedient, and may remove the same, and fix their compensation: *provided*, that the amount thus paid shall not exceed the sum appropriated by the city council for that item of expense, and the income of any moneys which may lawfully be appropriated for the same purpose from funds or property held by said trustees under the provisions of this act.

May appoint librarian and assistants, and fix their compensation. *Providio.*

SECT. 7. The city council shall have power to pass such ordinances not inconsistent herewith, or repugnant to other laws of the commonwealth, as to the duties and authority of said board, as they may from time to time deem expedient.

City council may pass ordinances as to duties of board.

SECT. 8. This act shall take effect upon its passage.

April 4, 1878.

[1853, 38; 1873, 286; 1880, 222; 1882, 143; 1883, 141.]

1878. — CHAPTER 129.

AN ACT IN RELATION TO THE INDEXES IN THE REGISTRY OF DEEDS OF THE COUNTY OF SUFFOLK.

Be it enacted, etc.:

SECTION 1. The powers and duties of the aldermen of Boston under sections one hundred and three and one hundred and four of chapter seventeen of the general statutes, shall hereafter be exercised by a board of index commissioners, who shall serve without pay. The justices of the superior court, or a majority thereof, shall appoint, within one month from the time of the passage of this act, three such commissioners to hold office for the terms of one, two, and three, years respectively, beginning with the first day of April of the current year, and shall appoint annually thereafter, during the month of March, one such commissioner, to hold office for the term of three years, beginning with the first day of April following. In the performance of their duties said board shall not expend an amount in excess of the sum authorized by the board of aldermen of Boston. Any of said board of commissioners may be removed by the justices aforesaid, for good cause shown, as provided for the removal of a register of deeds, by section eighty-eight of said chapter; and in case of a vacancy in said board by reason of death, resignation, or removal, it shall be filled by appointment by the justices aforesaid for the unexpired term.

Index commissioners to be appointed by justices of superior court.

Repealed by P.S. For reënactment, see *post*, p. 321.

Not to expend in excess of sum authorized. Removal from office.

Vacancies may be filled.

SECT. 2. This act shall take effect upon its passage.

April 9, 1878.

1878. — CHAPTER 176.

AN ACT RELATING TO THE DISPOSITION OF CERTAIN FUNDS IN THE
TREASURY OF THE CITY OF BOSTON.*Be it enacted, etc. :*May pay fees
and charges for
collection of
certain taxes.

SECTION 1. The city of Boston is authorized to pay to the persons authorized to collect taxes, betterments, rates, and assessments, in said city, prior to the first day of September, in the year eighteen hundred and seventy-five, such amount of the fees, charges, and commissions thereon, allowed by law, as had accrued, or were earned but were unpaid, prior to said first day of September, and have since actually been paid into the treasury of said city, between said date and the date of the passage of this act.

Repeal.

SECT. 2. So much of chapter one hundred seventy-six of the acts of the year eighteen hundred seventy-five as is inconsistent herewith is hereby repealed.

SECT. 3. This act shall take effect upon its passage.

April 23, 1878.

[1875, 176.]

1878. — CHAPTER 192.

AN ACT RELATIVE TO THE REBUILDING AND IMPROVEMENT OF STABLES
IN THE CITY OF BOSTON.*Be it enacted, etc. :*Stables may be
rebuilt.

SECTION 1. Any stable now, or hereafter, legally existing in the city of Boston may, with the consent of the mayor and aldermen of said city, be rebuilt, enlarged, and improved, in accordance with the provisions of chapter two hundred and eighty of the acts of the year eighteen hundred and seventy-one, and the several acts in amendment thereof, regulating the construction of buildings in said city.

SECT. 2. This act shall take effect upon its passage.

April 26, 1878.

[1810, 124; 1869, 369.]

1878. — CHAPTER 243.

AN ACT IN RELATION TO REGISTRATION AND ELECTIONS IN THE CITY
OF BOSTON.*Be it enacted, etc. :*Voting precincts
to be established.
1879, 163.

SECTION 1. On or before the first day of September in the current year, each ward of the city of Boston shall be divided by the board of assessors of taxes in said city, into voting precincts, each consisting of compact and contiguous territory within said ward, and containing as nearly as may be five hundred registered voters. The registration in the year eighteen hundred and seventy-seven shall be taken as the basis of such division. Said precincts shall be designated by numbers or by letters of the alphabet. In the year eighteen hundred and eighty-six, as soon as practicable after the division of the city into new wards as now provided by law, and every fifth year thereafter, the said wards shall be divided by said board of assessors into voting precincts on the basis of the registration of voters in the preceding year.

Precincts to be
designated by
numbers or
letters.

SECT. 2. In each voting precinct, there shall be the following

Warden and
clerk to be

election officers : that is to say, at the annual city election, except in the current year, one person shall be chosen in each precinct as warden, and one person as clerk; and the mayor, at some time before the first day of October in each year, except the current year, shall, with the approval of the board of aldermen, appoint, for each voting precinct, two inspectors, qualified voters in the ward of which such precinct forms a part, who shall be men of good repute and standing, and from different political parties. Each of these officers shall be sworn to the faithful discharge of his duties, and shall hold office for one year from the said first day of October. In case of any vacancy in the office of inspector, or in case either of said inspectors shall decline to act in that capacity before the first day of November in any year, the mayor may, with the approval of the board of aldermen, make an appointment of some person of good repute and standing to fill said office; and in making such appointment it shall be his duty to select some person of the same political party with the original incumbent of said office; and every person so appointed shall be sworn to the faithful discharge of his duties. In case of a vacancy in the office of warden, clerk, or inspector of a precinct, on the day of any election, such vacancy shall be filled, *pro tempore*, by the voters of said precinct by nomination and hand vote. The wardens, clerks, and inspectors, appointed or elected as herein provided, shall have the same purposes, and, except as hereinafter provided, be subject to the same duties and liabilities, as the wardens, clerks, and inspectors, now holding office in said city.

elected in each precinct.
1881, 291.

Two inspectors to be appointed.

Vacancies.

SECT. 3. The terms of office of all ward officers heretofore chosen shall expire on the day before the next annual state election; and the mayor and aldermen shall, previous to that date, appoint from the legal voters in each ward, one warden, one clerk, and two inspectors, for each precinct within said ward, who shall officiate in their several capacities on the day of said state election. The inspectors so appointed shall be selected from different political parties, and shall hold office until the first day of October of the following year; and the wardens and clerks so appointed shall hold office only during the state election of the current year. At said state election there shall be chosen a warden and clerk in each precinct, who shall hold office until their successors are chosen as provided in the foregoing section. And, in every year in which a new division of the wards into voting precincts is made, as hereinbefore provided, the terms of office of the election officers then holding office shall expire before the next annual state election, and the same proceedings shall be had in the appointment and election of officers for the new precincts as are herein provided for the precincts established in the current year.

Warden, clerk, and inspectors, to be appointed to act at next annual state election.

Terms of office upon a new division of wards.

SECT. 4. The board of aldermen shall, at least ten days before any election, issue their warrants for the legal voters of each or any ward, as may be required, to assemble at the several polling-places within said ward, at the time and for the purpose stated in said warrants; and it shall be the duty of the officers of each precinct to receive, sort, and count, the ballots cast at such election, and to make returns in the manner provided by law, to the city clerk, of the results of such election, and of the number of votes cast for each officer, except the warden and clerk of said precinct. When an election is held in any precinct for a warden or clerk of said precinct, it shall be the duty of the officers presiding at such election, to send a certificate of election to the person chosen to either of said offices.

Warrants for election.
R.O. c. 10.

Precinct officers to make returns to city clerk.

SECT. 5. The board of aldermen shall, thirty days at least before the day of each election, designate and appoint the polling-place in each of the voting precincts in the city, and procure the same for such purpose, and cause it to be fitted up and prepared therefor.

Polling-places to be designated by aldermen.

No building to be used in which intoxicating liquors are sold.

Such place shall be in the most public, orderly, and convenient, portion of the district; and no building or part of a building shall be so designated or used in which, or in any part of which, intoxicating liquor is sold or has been sold within thirty days next preceding the day of election.

List of voters to be posted in each voting precinct. 1880, 225.

SECT. 6. [The assessors of taxes in the city of Boston shall, on or before the fifteenth day of July in each year, except in the year eighteen hundred and seventy-eight, make, print, and post, in at least one public place within each voting precinct, street lists arranged by voting precincts¹] so as to show under the number of the house, or if there is no number, then under such other definite description of the location of the dwelling-place as will enable it to be readily ascertained, the names of all persons resident in each dwelling, and assessed for poll taxes; and shall also send such number of copies thereof as may be required, to the registrars of voters.

Application for assessment may be made not later than the first day of September.

SECT. 7. Any person not assessed for a poll tax, who is entitled to be so assessed, may, not later than the first day of September in each year, apply to the board of assessors to be assessed; and said board shall hold before that date not less than ten evening sessions for the performance of the duties imposed on them by this section.

Collector to designate times and places in each ward or precinct for payment of taxes.

[SECT. 8.² The collector shall fix convenient times and places in each ward or precinct, extending to not later than the fifteenth day of October in each year, for the payment of taxes to himself or a deputy collector, and of the times so appointed not less than six shall be in the evening; and he shall give public notice thereof by advertisements in at least two daily newspapers printed in Boston, one of which shall be an evening paper, and also by a circular or card addressed to each person assessed for a poll tax only, and delivered through the mail or otherwise. Said circulars or cards shall be delivered on or before the second day of September in each year, and the sessions to be held by said collector under the provisions of this act shall begin as soon after the second day in September of each year as may be necessary. No tax bills for poll taxes only, shall hereafter be distributed to or for the persons assessed before payment thereof.]

Persons assessed for poll tax only, to be notified by circular.

Changes and corrections of assessed names.

[SECT. 9.³ All changes or corrections of assessed names shall be made by the board of assessors, on a form or certificate specially prepared for the purpose; on presentation of which to the collector of taxes, he shall make the corresponding change or correction on the list of assessed polls committed to him by the assessors of taxes, and also on the tax bill, before it is receipted or delivered, and shall affix thereto his official stamp, which shall be the only authority recognized by the registrars of voters in adopting said changes or corrections for the purposes of registration.]

Certificate of payment in case of loss of tax receipt.

SECT. 10. If any person assessed for a poll tax only, shall have lost his receipt therefor, he may make application to the board of assessors for proof of assessment, who, if satisfied that he is the person he claims to be, and that his tax bill has been lost or destroyed, shall furnish him with a statement giving his name, residence, ward, and page of assessment; which statement shall be presented by the applicant to the collector of taxes, who shall issue to him a certificate, different in color, size, and appearance, from the original tax bill, setting forth that said tax has been paid.

¹ By St. 1880, c. 225, the words in brackets in section six are stricken out and the following substituted: — "The assessors of taxes of the city of Boston shall, on or before the fifteenth day of July in each year, cause street lists of the several voting precincts in said city to be printed and compiled in pamphlet form for public distribution. Said compilation shall be by precincts, separately, not exceeding fifty copies for each, arranged."

² Section eight has been stricken out by St. 1880, c. 225, § 1.

³ Substitute St. 1880, c. 225, § 1.

SECT. 11. After the ward¹ lists of qualified voters are printed and posted as now required by law, no names shall be added thereto, unless the applicant for registration appears in person before the registrars or assistant registrars.

No name to be added to posted list except upon personal application of voter. 1880, 225, § 1.

SECT. 12. The city registrar shall, on the first day of every month, and also two days before every election, send to the registrars of voters a list, by wards, of male persons over twenty-one years of age deceased within the preceding month, or since the last time of sending such list; and the names of such persons found upon the voting lists shall be erased therefrom.

Names of persons deceased to be erased.

SECT. 13. If the name of a qualified voter shall be erroneously erased from the published voting list, he may apply to the registrars of voters at any time before the closing of the polls, for its restoration; and if he shall prove that his claim be valid, his name shall be restored to the voting list; and he shall be given a certificate thereof, if such restoration is made on the day of election; on presentation of which to the officers of the precinct in which he was entitled to be registered, he shall be allowed to vote therein; and the certificate shall be returned and preserved in like manner with the ballots cast in said precinct.

Name erroneously erased may be restored

SECT. 14. On complaint in writing, under oath, made by any voter of the city, at least seven days prior to an election, setting forth that he has reason to believe, and does believe, that any one whose name is on the voting list has not the legal qualifications of a voter, and setting forth the nature of the alleged disqualification, it shall be the duty of the registrars, if they shall be satisfied that there is reasonable ground for such complaint, to summon such person to appear before them at a time and place named, and to examine him under oath in regard to the matter set forth in the complaint; and, if satisfied that he is not a qualified voter, his name shall be stricken from the list.

Name may be stricken from list when complaint is made under oath and after examination.

[SECT. 15.* If the registrars are not satisfied as to the identity or qualifications of an applicant for registration, they may make such examination of said applicant, under oath, as they may consider necessary or proper, to verify the fact that he is possessed of the constitutional requirements of a voter; and said registrars as soon after the second day of September in each year as may be necessary, shall hold evening sessions in or near each ward for the performance of any and all the duties imposed upon them by the provisions of this act: *provided, however*, that they shall hold not less than ten evening sessions prior to the annual state or municipal election.]

Proof of identity on qualifications of applicant for registration.

SECT. 16. The registration of voters shall cease at ten o'clock in the evening of the fourteenth day preceding the day of any election; and no name shall thereafter be entered on the voting lists, except as provided in section ten, chapter three hundred and seventy-six, of the acts of the year eighteen hundred and seventy-four, or to restore a name erroneously stricken off as herein before provided.

Registration to cease at ten o'clock P.M. of the fourteenth day preceding any election. 1881, 221.

SECT. 17. If any person who will become twenty-one years of age before the election next ensuing shall make application to the registrars for registration in order to entitle him to vote at such election, he shall be admitted to registration, provided the registrars shall be satisfied that he will be of age before such election, and that he has the other constitutional qualifications of a voter, and is the identical person he professes to be.

Person becoming of age before next election may be admitted to registration.

SECT. 18. One ballot-box only shall be used in each voting precinct; and before voting begins the ballot-box shall be shown to be empty; and it shall not be removed from the public view from the time when it is so shown to be empty until after the close of the polls.

Ballot-box to be shown to be empty and not to be taken from public view while polls are open. 1881, 291.

¹ St. 1880, c. 225, inserts after the word "ward" the words "or precinct."

* Substitute 1880, 225.

Name and residence of voter to be announced.

Ballots and lists to be sealed up. 1881, 291.

Applications, etc., to be preserved for two years.

Person taking false oath to be deemed guilty of perjury.

Person inducing false oath to be taken, deemed guilty of subornation of perjury.

Penalty for violation of act by officers.

Not to affect elections previous to next state election.

SECT. 19. Every person offering to vote shall give his name and residence, and the same shall be announced in a loud and distinct tone of voice by one of the inspectors; and no ballot shall be received until the name shall have been found upon the list and properly checked. After the canvass has been completed by the election officers, the ballots and voting lists shall be sealed up, transmitted to the city clerk, and preserved in the manner now provided by law.

SECT. 20. All applications, certificates, or affidavits, taken by the board of assessors or registrars of voters, under this act, shall be preserved for two years.

SECT. 21. Any person who shall wilfully and corruptly take any false oath or affirmation in making any application, certificate, complaint, or affidavit, or upon any examination provided for in this act, shall be deemed guilty of perjury.

SECT. 22. Any person who shall wilfully and corruptly instigate, advise, induce, or procure, any other person to take any false oath or affirmation in making any application, certificate, complaint, or affidavit, or upon any examination provided for in this act, shall be deemed guilty of subornation of perjury.

SECT. 23. Any registrar, assistant registrar, assessor, assistant assessor, collector, assistant collector, warden, clerk, or inspector of elections, who shall wilfully violate any provision of this act, shall be punished by imprisonment not exceeding one year, or by a fine not exceeding one hundred dollars.

SECT. 24. This act shall take effect upon its passage; but any election which may be held previous to the next state election shall be conducted according to the provisions of the laws heretofore regulating the same.

May 11, 1878.

[1874, 60; 1879, 163; 1880, 225; 1881, 221.]

1878. — CHAPTER 244.

AN ACT IN RELATION TO THE POLICE DEPARTMENT OF THE CITY OF BOSTON.

Be it enacted, etc.:

R.O. c. 24.
Police commissioners to be appointed.
Terms of office.

Removal from office.

Powers of commissioners.
1854, 448.
1879, 33, 59.

1881, 136.
1882, 267.
P.S. 102, §§ 2, 27,
28, 32, 111, 124.
R.O. c. 24, § 3,
as amended by
ordinances of
1883, c. 1.

SECTION 1. The mayor of the city of Boston may appoint, subject to the approval of the city council, three able and discreet persons, to constitute a board of police commissioners in said city. The terms of office of said commissioners shall be so arranged at the time of their appointment that the term of one shall expire on the first Monday in May in each year after the year eighteen hundred and seventy-eight; and the vacancy so created, as well as all vacancies occurring otherwise, shall be filled by the mayor, with the approval of the city council. Any member of said board may be removed at any time by the mayor, for cause; or he may be removed by vote of two-thirds of the whole of each branch of the city council by vote taken by yeas and nays.

SECT. 2. All the powers vested by the statutes of the commonwealth in the board of aldermen of the city of Boston, in relation to the administration of police, and the appointment of watchmen and policemen in said city, and all the powers and duties conferred upon the board of license commissioners, appointed under the provisions of section twenty, chapter ninety-nine, of the acts of the year eighteen hundred and seventy-five, shall be, and hereby are, vested in the said board of police commissioners; and said board may also be empowered by the city council to exercise all or any of the powers conferred by the statutes of the commonwealth upon the board of aldermen,

the city council, or the city of Boston, in relation to licensing, regulating, and restraining, theatrical exhibitions, public shows, and public amusements, billiard tables, bowling alleys, innholders and victualers, auctioneers, hawkers and peddlers, carriages, wagons and other vehicles, intelligence offices, itinerant musicians, pawnbrokers, and dealers in second-hand articles and old junk.

SECT. 3. The said board of police commissioners shall appoint a superintendent of police, a deputy superintendent of police, and such number of captains, inspectors, sergeants, patrolmen, clerks, and other officers, as the city council may from time to time by ordinance prescribe: *provided, however*, that the appointment of the superintendent of police, the deputy superintendent of police, and the captains of police, shall be subject to approval by the mayor of the city. Any of said officers, or members of the department, may be removed by the board for cause. The compensation of the commissioners and the officers of each grade shall be fixed from time to time by ordinances of the city council.

Commissioners to appoint policemen.

Superintendent, deputy, and captains, appointed subject to approval of mayor.
P.S. 28, § 27.

SECT. 4. The government and discipline of the police department shall be such as the said board of police commissioners may from time to time, by rules and regulations, prescribe. The superintendent of police, appointed as hereinbefore provided, shall have and exercise all the powers and duties which, by the laws now in force, are held and exercised by the chief of police of the city of Boston; and the other officers and patrol policemen, appointed as hereinbefore provided, shall have and exercise all the powers and duties which, by the laws now in force, are held and exercised by the watch of the city of Boston or by the police of said city.

Rules and regulations.

Powers and duties of officers.

SECT. 5. The said board of police commissioners may, by the affirmative vote of all the members, and with the approval of the mayor, retire from office in said police department, any captain, inspector, sergeant, or patrolman, who has become disabled while in the actual performance of duty, or who has performed faithful service in the department for a period of not less than fifteen consecutive years, and place the officer so retired upon a pension roll, and allow him an amount not exceeding one-third the annual salary or compensation of the office from which he is so retired. But no such officer shall be placed on the pension roll unless it shall be certified to the board in writing, by the city physician, that the officer is permanently incapacitated, either mentally or physically, from performing his duty as a member of the department, nor unless due notice is given to the officer of the intention to place him on the retired list. And said commissioners may, with the approval of the mayor, expend such sums as may be specially appropriated therefor by the city council for the relief of widows of police officers who have been killed in the execution of their duty or have died from the effects of injuries received in the execution of their duty. For the payment of the pensions herein authorized, the commissioners may draw from time to time upon the trustees of the fund for the relief of disabled police-officers, established by an ordinance of the city council the seventeenth day of June in the year eighteen hundred and seventy; and may also apply, if necessary, in addition to the income from said fund, any sums which may be specially appropriated therefor by the city council.

Disabled police-officers and men may be retired with pensions.
1879, § 7.
1883, 14.

Relief of widows of police-officers.

SECT. 6. The appointment of railroad police in the city of Boston, as authorized under the provisions of chapter three hundred and seventy-two of the acts of the year eighteen hundred and seventy-four, shall be made by the said police commissioners; and the said commissioners may, if they deem it expedient, upon the written application of any responsible corporation or person, appoint for a term not exceeding one year, suitable persons to be special police officers, to

Railroad police.

Special police.

Bond required.

serve without pay from the city, under such rules and regulations as the commissioners deem expedient, with the power of police-officers to preserve order and to enforce the laws and the ordinances of the city, in and about any place of amusement, place of public worship, wharf, manufactory, or other locality, specified in the application: *provided*, that such corporations or persons shall give bond to the city treasurer, satisfactory to the city solicitor, to be liable to parties aggrieved by any official misconduct of such police-officer to the same extent as for the torts of agents and servants in their employment; and proceedings may be had upon said bonds in the same manner as upon the bonds of constables. A record of such appointments shall be kept in the office of the commissioners; and any appointments so made may be revoked by the said commissioners at any time.

Commissioners may appoint special patrolmen without pay.

SECT. 7. The said board of police commissioners may, upon an emergency or apprehension of riot, tumult, mob, insurrection, pestilence, or invasion, appoint as many special patrolmen, without pay, from among the citizens, as they may deem desirable. During the service of any special patrolman authorized as aforesaid, he shall possess all the powers and privileges, and perform all the duties, that may be by orders, rules, and regulations, from time to time prescribed.

Mayor may assume command of police force.

SECT. 8. The mayor of the city of Boston shall have power at all times, in any emergency, of which he shall be the judge, to assume command of the whole or any part of the police force in said city.

City council may pass ordinances as to duties and authority of the board.

SECT. 9. The city council of Boston shall have power to pass such ordinances, not inconsistent herewith or repugnant to other laws of this commonwealth as to the duties and authority of said board of police commissioners, as it may from time to time deem expedient and necessary.

Members of force to continue in office.

SECT. 10. The members of the Boston police force, in office when the said police commissioners are first appointed, shall continue to hold their several offices until removed or placed on the retired list by the said commissioners; and the present rules and regulations of the board of aldermen for the government of the police, shall continue in force until otherwise ordered by the said commissioners.

SECT. 11. All acts or parts of acts inconsistent herewith are hereby repealed.

SECT. 12. This act shall take effect upon its passage.

May 14, 1878.

[1854, 448; 1879, 38, 59, 97; 1882, 267; 1883, 14.]

1879. — CHAPTER 38.

AN ACT IN RELATION TO THE LICENSES OF INNHOLDERS AND COMMON VICTUALLERS IN THE CITY OF BOSTON.

Be it enacted, etc.:

Innholders, etc., to be licensed by police commissioners. 101 Mass. 214.

SECTION 1. All provisions of law applying to the mayor and aldermen of the city of Boston relative to the licensing of innholders and common victuallers, shall hereafter apply to the board of police commissioners in said city, instead of said mayor and aldermen; but no innholder's or common victualler's license issued by said board shall be valid unless signed by a majority of the members thereof.

Licenses to expire on the first day of May.

SECT. 2. All licenses hereafter issued to innholders and common victuallers in said city, shall expire on the first day of May next after they take effect. Such licenses, for one year, may be granted during the month of April, to take effect on the first day of May next following, and such licenses may be granted at any time for the remainder of the year. The licenses already granted to innholders and common

viatuallers in said city, to expire on the first day of April next, shall, unless sooner revoked for cause, continue in force until the first day of May next.

SECT. 3. This act shall take effect upon its passage.

February 18, 1879.

[1878, 244; P.S. 102.]

1879. — CHAPTER 59.

AN ACT TO PROVIDE FOR LICENSING CONDUCTORS, DRIVERS, AND DESPATCHERS OF STREET RAILWAY CARS, IN THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. The board of police commissioners of the city of Boston shall, upon the recommendation of the president, superintendent, or board of directors, of any street railway corporation using the streets of said city, issue licenses from time to time to the conductors and drivers of the street cars of the said several street railway corporations, and also to the persons employed to start or despatch the cars of said corporations from the stables, stations, depots, and other places, within said city; and said board of police commissioners may revoke any such license at any time for sufficient cause. Such licenses shall continue and remain in force until surrendered by the licensee or until revoked by said board of police commissioners, and shall contain such provisions and conditions as said board shall determine: *provided, however*, that the fee to be paid for each license shall not exceed the sum of twenty-five cents.

Conductors and drivers of street cars to be licensed by police commissioners.

License may be revoked for cause. Amended by 1880, 99

SECT. 2. A record of the issue, surrender, and revocation, of such licenses, shall be kept at the office of said board of police commissioners, and shall be open at all times to the inspection of the presidents and superintendents of the several street railways using the streets in said city; and whenever any such license is revoked by the board of police commissioners, notice thereof shall be transmitted to the presidents or superintendents of said street railways and to the licensee.

Record of licenses to be open to inspection of presidents, etc., of roads.

SECT. 3. Said board of police commissioners shall require the members of their department to observe and direct the persons licensed under this act, and to cause them to conform to the laws of the commonwealth, the ordinances of the city of Boston, the regulations of the board of aldermen of said city, and the rules of said board of police commissioners relating to the use of the tracks, the speed of the horses, and especially to the obstructions of public travel, by the management of the street cars; said police-officers shall secure the necessary testimony, and shall report to the board of police commissioners every instance of the wilful or persistent violation by any licensee of any such law, ordinance, regulation, or rule, or any refusal to obey the request of said officers respecting the management of any street car.

Police commissioners to enforce all laws, etc., relating to use of tracks, etc.

Police officers to secure testimony and report violations of law.

SECT. 4. Any person who shall drive any horses attached to any street car in any street in the city of Boston, except at the stables of said corporations, or shall act in the capacity of conductor, starter, or despatcher, at any place within the limits of said city, without being licensed therefor, as herein provided, or who shall act in such capacity in violation of the provisions or conditions, or after the revocation of such license, shall forfeit and pay a sum not exceeding twenty dollars for each offence.

Penalty for acting as driver, etc., without a license.

SECT. 5. No person whose license shall have been revoked pursuant to the provisions of this act, shall be reinstated, or receive a

Not to receive new license within twelve

months of re-
vocation.
Amended by
1880, 99.

new license as conductor, driver, starter, or despatcher, on any street railway in the city of Boston, within a period of twelve months from the date of the revocation of his license.

February 26, 1879.

[1880, 99.]

1879. — CHAPTER 97.

AN ACT RELATIVE TO PENSIONS TO DISABLED POLICE-OFFICERS OF THE CITY OF BOSTON.

Be it enacted, etc. :

Pensions to
disabled
policemen.

SECTION 1. Section five of chapter two hundred and forty-four of the acts of the year eighteen hundred and seventy-eight shall be construed to apply to the police-officers therein named who have become connected with the police department of the city of Boston by the annexation of any other city or town to said city of Boston; and the service of such officer in any such city or town before annexation, shall be reckoned in making up the number of years' service required under said section; and any such officer who has been discharged from said department since said section went into effect shall be entitled to the benefits of said section from the date of such discharge.

SECT. 2. This act shall take effect upon its passage.

March 10, 1879.

[1878, 244.]

1879. — CHAPTER 98.

AN ACT IN RELATION TO THE DISCHARGE OF SEWAGE INTO THE ROXBURY CANAL.

Be it enacted, etc. :

City may divert
sewage now dis-
charged into
Roxbury canal.

SECTION 1. The city of Boston is hereby authorized to divert, by temporary structures, the sewage now discharged into the Roxbury canal west of the easterly line of East Chester park, so that it shall discharge into said canal east of said easterly line; and said diversion may continue until the system of improved sewerage now being constructed in said city shall be in practical operation, but no longer.

May construct
and maintain a
storm overflow.

SECT. 2. The city of Boston is hereby authorized to construct and maintain a storm overflow from said system of improved sewerage, the said storm overflow to empty into said Roxbury canal east of the easterly line of East Chester park.

Canal to be
dredged by city
whenever
ordered by
state board of
health.

SECT. 3. Whenever in the opinion of twenty or more property tax payers of the city of Boston, resident within the ward or wards in which that portion of Roxbury canal east of Chester park lies, that part of the canal used as a storm overflow canal or basin shall require cleansing or dredging they shall, state the fact in writing to the state board of health, who shall, within thirty days after receipt of such notice, inspect said canal or basin, and if, in their judgment, it shall require cleansing or dredging, they shall direct the city of Boston so to cleanse or dredge within thirty days after receipt of such notice, and when so directed the city of Boston shall, within the time specified, cleanse or dredge such basin or channel in a manner satisfactory to the state board of health, who shall, upon the completion of the work, indorse upon the order directing the same to be done, its approval thereof, with the date of said indorsement.

Expense of
dredging to be
assessed upon
abutters.

SECT. 4. Upon the completion of said cleansing or dredging by the city of Boston, and the receipt of the approval of the state board

of health thereon, the city of Boston may submit to the state board of health sworn itemized statements of the costs thereof, with vouchers therefor, of which sum the board of health shall then proceed to assess such portion or portions as they shall deem just and equitable upon the wharves and lands adjoining or abutting upon said canal or basin; but they shall have power to make assessments upon the several wharves and lands only for the expense of removing deposits caused by the owners or occupants thereof respectively.

SECT. 5. All assessments made under this act shall constitute a lien upon the wharves and lands so assessed, for one year after the assessment is made, and as provided in section four of this act, and may be enforced in the same manner, with like charges for cost and interest as provided by law for the collection of taxes; and all said assessments which shall remain unpaid after the same become due or payable, shall draw interest from the time the same become due or payable until the time of payment thereof.

Assessments to be a lien upon wharves and lands assessed.

SECT. 6. Any assessment made under this act, which is invalid by reason of any error or irregularity in the making thereof, and which has not been paid, or which has been recovered back, may be made by said state board of health to the amount for which the original assessment ought to have been made, and the same, if made upon a wharf or land, shall be a lien upon such wharf or land, and be collected in the same manner as reassessed taxes are.

Assessment invalid by error in making may be made anew.

SECT. 7. Any person aggrieved by an assessment made under this act may apply by petition to the superior court for the county of Suffolk, at any term thereof within one year after said assessment is made; and, after due notice to the city of Boston, a trial shall be had at the bar of the court, in the same manner in which other civil causes are there tried by jury.

Person aggrieved may apply to superior court within one year.

SECT. 8. If the jury shall not reduce the amount of the assessment complained of, the city of Boston, as respondent, shall recover costs against the petitioner, which costs shall be a lien upon said wharves and land, and be collected in the same manner as the assessment; but, if the jury shall reduce the amount of said assessment, the petitioner shall recover costs from said city of Boston, and all assessment shall be a lien upon said wharves and lands, for one year after the final judgment, in any suit or proceeding where the amount or validity of the same is in question, and be collected in the same manner as original assessments.

Costs.

Assessments to be a lien for one year after final judgment.

SECT. 9. All acts and parts of acts inconsistent herewith are hereby repealed.

SECT. 10. This act shall take effect upon its passage.

March 10, 1879.

1879. — CHAPTER 163.

AN ACT IN ADDITION TO "AN ACT IN RELATION TO REGISTRATION AND ELECTIONS IN THE CITY OF BOSTON."

Be it enacted, etc.:

SECTION 1. On or before the first day of May, in the current year, the board of assessors of taxes in the city of Boston shall divide the wards numbered twenty-three, twenty-four, and twenty-five, of said city, into the same number of voting precincts to which said wards were entitled, under chapter two hundred and forty-three of the acts of the year eighteen hundred and seventy-eight; said division to have reference to convenience of neighborhoods, and to remain in force until the new division of wards shall take effect as provided in said chapter two hundred and forty-three.

Voting precincts in wards twenty-three, twenty-four, and twenty-five.

Wardens and clerks to hold office until successors are chosen.

Wardens and clerks, in wards divided into new precincts.

Appointment of warden, clerk, and inspectors.

SECT. 2. The wardens and clerks chosen in the several voting precincts of the city of Boston at the last state election shall hold their respective offices until the next annual city election, and until their successors are chosen. In case any ward shall be divided into new voting precincts under the provisions of this act, the wardens and clerks chosen within the limits of such wards at the last state election shall, until others are chosen, act in the voting precinct which shall bear the same numerical designation as that for which they were respectively chosen at said state election. The mayor and aldermen shall, previous to any election during the current year, appoint from the legal voters in each additional voting precinct which may be established, one warden, one clerk and two inspectors. The inspectors so appointed shall be selected from different political parties, and all such officers shall hold office until others are chosen in their place, as now provided by law.

SECT. 3. This act shall take effect upon its passage.

March 26, 1879.

[1878, 248; 1880, 225; 1881, 221.]

1879. — CHAPTER 198.

AN ACT IN RELATION TO THE COMPENSATION OF STREET COMMISSIONERS OF THE CITY OF BOSTON.

Be it enacted, etc. :

Compensation of street commissioners.

SECTION 1. Section four of chapter three hundred and thirty-seven of the acts of the year eighteen hundred and seventy is hereby amended by striking out the words "three thousand" therein, and inserting instead thereof the words "two thousand."

SECT. 2. This act shall take effect upon its passage.

April 9, 1879.

[1870, 387.]

1879. — CHAPTER 230.

AN ACT IN ADDITION TO "AN ACT TO EMPOWER THE CITY OF BOSTON TO LAY AND MAINTAIN A MAIN SEWER DISCHARGING AT MOON ISLAND IN BOSTON HARBOR, AND FOR OTHER PURPOSES."

Be it enacted, etc. :

Additional powers for laying main sewer to Moon island.

SECTION 1. The city of Boston shall have authority, in addition to the powers now possessed by it, for the purpose of laying and maintaining a main sewer running south-easterly from the direction of Charles river, to build and maintain wharves, pumping-works, reservoirs, and other structures, on the main land, at or near the shore of the Calf pasture, so called, in Dorchester bay, thence to conduct said sewer by means of embankments, and of a tunnel or siphon, not less than six thousand five hundred feet long, under the bottom of the harbor to that part of the town of Quincy called Squantum, thence along or across said Squantum, and the flats and waters adjacent thereto, to Moon island; or said city may build the sewer or siphon under the bottom of the harbor on a nearly direct line from said Calf pasture to Moon island. Said city shall have authority to build and maintain a reservoir or reservoirs, a pumping-station, wharves, and dwelling-houses, and such other works as are essential to a proper and convenient discharge of the sewage at Moon island. Said city shall have further authority to connect Moon island with Squantum

City may build reservoirs, etc.

by means of a bridge or embankment to be used as a roadway. In any construction over tide water, said city shall be subject to the direction of the harbor commissioners in the manner pointed out in chapter four hundred and thirty-two of the acts of the year eighteen hundred and sixty-nine.

SECT. 2. The city of Boston shall have authority to take such lands, buildings, wharves, and structures, as may be necessary to accomplish the objects of the preceding section; and all damages to private property, and for lands, buildings, wharves, or structures, taken under this act, shall be ascertained as prescribed in chapter forty-three of the general statutes, and paid by the city of Boston. May take land and buildings.

SECT. 3. This act shall take effect upon its passage.

April 16, 1879.

[1876, 186; 1882, 256.]

1879. — CHAPTER 256.

AN ACT RELATIVE TO AUDITING THE ACCOUNTS OF THE COUNTY OF SUFFOLK.¹

Be it enacted, etc.:

SECTION 1. The auditor of accounts of the city of Boston shall be the auditor of the county of Suffolk; and hereafter all bills for county salaries, expenses, and disbursements shall be examined, audited, and allowed, by said auditor prior to the payment thereof. City auditor to be auditor of Suffolk county. 130 Mass. 486.

SECT. 2. There shall be paid to said county auditor, by the county of Suffolk, a sum not exceeding eight hundred dollars a year, and at the same rate for any part of a year; the same to be in full for all services rendered by him, and for all clerical assistance. Pay for services.

SECT. 3. All acts and parts of acts inconsistent herewith are hereby repealed. Repeal.

SECT. 4. This act shall take effect on the first day of May in the year eighteen hundred and seventy-nine.

April 24, 1879.

1879. — RESOLVES. CHAPTER 22.

RESOLVES IN RELATION TO BACK BAY LANDS AND SEWERAGE.

Resolved, That the land commissioners, or their successors in office or authority, may sell and convey to the Boston and Albany Railroad Company the land on the corner of Boylston and Exeter streets, adjoining land now owned by said company, together with the passage-way on the southerly line of the aforesaid land of the commonwealth, on such terms and conditions as the governor and council may approve. Commissioners may sell land to Boston and Albany Railroad Company.

Resolved, That the land commissioners, or their successors in office or authority, may convey to the city of Boston so many of the passage-way sewers, belonging to the commonwealth, on the Back Bay territory, as may be deemed expedient, on such terms as the governor and council may approve. May convey to Boston passage-way sewers.

March 12, 1879.

¹ The provisions of this statute are now embodied in P.S. 23, §§ 34, 35.

1880. — CHAPTER 38.

AN ACT TO REPEAL THE LAW FORBIDDING SMOKING IN THE STREETS OF BOSTON.

Smoking in streets.

Be it enacted, etc. :

Section ten of chapter one hundred and seventy-one of the acts of the year eighteen hundred and eighteen is hereby amended by striking out the words "or shall smoke, or have in his or her possession, any lighted pipe or cigar, in any street, lane, or passage-way, or on any wharf, in said town."

February 27, 1880.

[1817, 171.]

1880. — CHAPTER 67.

AN ACT IN RELATION TO NAMES OF PUBLIC WAYS IN THE CITY OF BOSTON.

Names of streets and ways not to be duplicated.

Be it enacted, etc. :

SECTION 1. From and after the date of the passage of this act no name shall be newly assigned to any public way in the city of Boston by which any other public way is already called, whether under the title of street, avenue, court, place, alley, or other descriptive title; but any way not affording continuous passage for teams between two other ways may be termed a court or place, and receive the name of any way with which it communicates. And any extension or continuation of a public way may be called by the same name.

1884, 278.

Street commissioners to fix names of streets hereafter laid out.

SECT. 2. The names of all public ways hereafter laid out by the board of street commissioners of the city of Boston shall be fixed by a vote of said board. Such vote shall take effect upon such laying out, shall be published in such manner as said board shall direct, and shall be certified by the clerk of said board to the register of deeds for the county of Suffolk. The names of all public ways not already fixed, and changes in the names of ways, may be made by the same authority, confirmed by the board of aldermen of said city, and not otherwise. Such changes shall take effect on the first day of March of each year, shall be published in such manner as the board of aldermen shall direct, and shall be certified by the city clerk to the register of deeds for the county of Suffolk.

1884, 278.

Repeal of 1868, 199.

SECT. 3. Chapter one hundred and ninety-nine of the laws of eighteen hundred and sixty-eight is hereby repealed.

SECT. 4. This act shall take effect upon its passage.

March 8, 1880.

[1884, 278.]

1880. — CHAPTER 99.

AN ACT TO AMEND "AN ACT RELATING TO THE LICENSING OF CONDUCTORS, DRIVERS, AND DISPATCHERS OF HORSE-CARS, IN THE CITY OF BOSTON."

Be it enacted, etc. :

Licensing of conductors, etc., of horse-cars.

SECTION 1. Section one of chapter fifty-nine of the acts of the year eighteen hundred and seventy-nine is amended in the tenth line,¹ by inserting after the word "may," the words "after due notice and

¹ In the eighth line of this reprint.

a hearing.”¹ Section five of said act is amended by striking out in the fifth line the word “twelve,” and inserting the word “two,” and by adding, at the end of the section, the words “unless by the assent of said commissioners.”

Amendment of
1879, 59, §§ 1, 5.

SECT. 2. This act shall take effect upon its passage.

March 16, 1880.

[1879, 59.]

1880. — CHAPTER 107.

AN ACT IN RELATION TO PENSIONING DISABLED MEMBERS OF THE FIRE DEPARTMENT OF THE CITY OF BOSTON, AND FOR OTHER PURPOSES.

Be it enacted, etc.:

SECTION 1. The board of fire commissioners of the city of Boston, by the affirmative vote of all the members, and with the approval of the mayor, may retire from office in the fire department any permanent or call member thereof who has become disabled while in the actual performance of duty, or any permanent member who has performed faithful service in the department for a period of not less than fifteen consecutive years, and place the member so retired upon a pension roll. No such member shall be placed on the pension roll unless it shall be certified to the board, in writing, by the city physician that such member is permanently incapacitated, either mentally or physically, from performing his duty as a member of the department. In case of total permanent disability caused in, or induced by, the actual performance of his duty, the amount of annual pension shall be one-half of the annual compensation allowed to the permanent men of the grade in which said member served, or such less sum as the said board may determine. The pension of members of the permanent force who have served fifteen or more consecutive years shall be an amount not exceeding one-third the annual salary or compensation of the office from which said members are retired, or such less sum as the board may determine.

Members of fire
department may
be retired upon
pensions.

Pension to be
one-half of pay,
if disability is
total.

Pension of
members who
have served
fifteen years.

SECT. 2. If any member of the said fire department shall die from injuries received while in the discharge of his duties, and shall leave a widow, or, if no widow, any child or children under the age of sixteen years, a sum not exceeding three hundred dollars may be paid by way of annuity to such widow so long as she remains unmarried, or to any such child or children so long as he or they continue under the age of sixteen years, and the board of fire commissioners may from time to time order such annuity to be reduced.

If member dies
from injuries,
annuity to be
paid to his
widow.

SECT. 3. For the purpose of carrying out the provisions of the foregoing sections, the board of fire commissioners may, with the approval of the mayor, expend such sums as may be specially appropriated therefor by the city council for the relief of widows or children of members of the fire department who have been killed in the execution of their duty, or have died from the effects of injuries received in the execution of their duty. For the payment of the pensions hereinbefore authorized, the board of fire commissioners may draw, from time to time, upon the city treasurer of Boston, any sums which may be specially appropriated therefor by the city council.

Relief of
widows and
children of fire-
men who have
been killed in
line of duty.

SECT. 4. The mayor of the city of Boston, for the time being, and his successors in office, the board of fire commissioners of the city of Boston, for the time being, and their successors in office, shall, together, continue a body corporate for the purposes of receiving and holding all sums of money, and real and personal estate not exceeding in the

Mayor and fire
commissioners
to be a body
corporate for
purposes of
holding funds.
1881, 22.

¹ In the fourth line of this reprint.

To be known as
the Boston
Firemen's Relief
Fund.

Powers and
duties.

aggregate two hundred thousand dollars which may be given, granted, bequeathed, or devised, to it for the benefit of members of the Boston fire department or their families requiring assistance, or for the benefit of any persons or the families of any persons who have been such members requiring assistance. The property so held shall be known as the Boston Firemen's Relief Fund. The said body corporate shall have authority to manage and dispose of the same, and the income thereof, according to their best discretion, subject to the provisions of any and all trusts which may be created for the purposes aforesaid. Said corporation shall have all the powers and privileges and be subject to all the duties, restrictions, and liabilities, set forth in all general laws which are now, or may hereafter be, in force relating to similar corporations.

SECT. 5. This act shall take effect upon its passage.

March 17, 1880.

[1850, 262; 1873, 258; 1881, 22.]

1880. — CHAPTER 125.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO CONSTRUCT AND MAINTAIN A HIGHWAY AND BRIDGE OVER CHARLES RIVER, AND TO WIDEN WARREN BRIDGE.

Be it enacted, etc.:

May construct
highway and
bridge across
Charles river.

SECTION 1. The city of Boston, if, in the judgment of its city council, the public convenience and necessity require, may lay out, construct, and maintain, a highway and bridge, not to exceed one hundred feet in width, across Charles river, from some point on the northerly side of Causeway street, between Beverly and Prince streets, to some point on the southerly side of Water street, between Warren avenue and the easterly side of Charles river avenue.

May reconstruct
and widen
Warren bridge.

SECT. 2. The city of Boston, if, in the judgment of its city council, the public convenience and necessity require, may reconstruct and widen, to a width not exceeding eighty feet, the present Warren bridge, and may construct fender guards, make changes in the draw and draw piers, and do such other acts as they may deem necessary, expedient, or convenient, in the premises, to secure a bridge and road which shall safely and conveniently accommodate public travel and navigation.

May take lands,
wharves, etc.

SECT. 3. To secure and accomplish the objects and purposes of the preceding sections, the city of Boston may take such lands, buildings, wharves, and structures, as it may deem necessary; and all damages to private property, for land taken under this act, shall be ascertained as in the case of the laying out of highways in the city of Boston.

Subject to
general laws.
P.S. 19, §§ 12, 13.

SECT. 4. In the exercise of the powers granted by this act, the city of Boston shall be subject to the provisions of chapter four hundred and thirty-two of the acts of the year eighteen hundred and sixty-nine, and all general laws applicable thereto.

SECT. 5. This act shall take effect upon its passage.

March 19, 1880.

[1882, 138; 1883, 140; 1884, 327.]

1880. — CHAPTER 126.

AN ACT IN ADDITION TO THE ACTS FOR THE PURPOSE OF SUPPLYING
THE CITY OF BOSTON WITH PURE WATER.

Be it enacted, etc. :

SECTION 1. For the purpose of supplying water to its inhabitants, the city of Boston is hereby authorized, by and through the agency of the Boston water board, to lay and maintain new main pipes from its reservoir constructed under the provisions of chapter one hundred and thirty-one of the acts of the year eighteen hundred and sixty-five, through the town of Brookline to the city of Boston, in the manner provided in chapter one hundred and sixty-seven of the acts of the year eighteen hundred and forty-six; and, for this purpose, may take and hold by purchase, or otherwise, any lands or real estate necessary therefor; and lay said pipes over or under any water-course or any streets, turnpike roads, railroads, highways or other ways, in such manner as not to unnecessarily obstruct or impede the travel thereon; and may enter upon, and dig up, any such roads, streets, or ways, for the purpose of laying down said pipe beneath the surface thereof, and for maintaining and repairing the same; but always in such manner and with such care as not to render the roads, streets, and ways, unnecessarily unsafe or inconvenient to the public travel thereon. And said city of Boston in performing said work shall be subject to such reasonable regulations as to time, place, and manner, of digging up any streets or ways of public travel for the purposes aforesaid and the laying of said pipes, as shall be made by the selectmen of Brookline, within the limits of said town, for the protection of their rights of drainage and sewerage therein, and the public rights of passage thereon.

May maintain new main pipes through Brookline to Boston.

May enter upon and dig up roads.

Subject to regulations of selectmen of Brookline.

SECT. 2. For the purpose aforesaid, the city of Boston is likewise authorized, through the agency of the Boston water board, to lay and maintain a main pipe from any point on pipes authorized by the foregoing section, through the cities of Cambridge and Somerville and the towns of Brookline and Medford to the Mystic pumping-station, so called, in the city of Somerville, and for this purpose shall have all the powers specified in the foregoing section, and shall be subject to such reasonable regulations of the city council of the cities of Cambridge and Somerville, and the selectmen of the towns of Medford and Brookline, within their respective limits, as may, by the foregoing section, be made by the selectmen of the town of Brookline. Said city of Boston shall not displace any public sewer or water pipe without the assent of the said city councils and boards of selectmen, respectively.

May lay and maintain pipes through Cambridge, Somerville, and Medford.

SECT. 3. Whenever the city of Boston shall dig up any street or way as aforesaid, it shall restore the same to as good order and condition as the same shall be in when such digging commenced; and the city of Boston shall at all times indemnify and save harmless the cities of Cambridge and Somerville, and the towns of Medford and Brookline, against all damage which may be recovered against them respectively; and shall reimburse to them, respectively, all expenses which they shall incur by reason of any defect or want of repair in any street or way, caused by the construction of said aqueduct, or the laying of said pipes, or by the maintaining or repairing of the same: *provided*, that the city of Boston shall have due and reasonable notice of all claims for such damages or injury, and opportunity to make a legal defence thereto.

Streets to be restored.

Provido.

SECT. 4. The city of Boston shall be liable to pay all damages that shall be sustained by any persons in their property by the taking

Liability for damages.

of any land or real estate, or the laying of said pipes, as aforesaid; and any person sustaining damage, as aforesaid, may have the same ascertained, determined, collected, and paid, in the manner which is provided in sections six, seven, and eight, of chapter one hundred and sixty-seven of the acts of the year eighteen hundred and forty-six.

Hydrants to be established.

SECT. 5. Upon requisition by the respective city councils of the cities of Cambridge and Somerville, and the respective boards of selectmen of the towns of Medford and Brookline, prior to the laying of the said aqueduct and pipes through their respective limits, the city of Boston shall insert a number of hydrants in said pipes, at points not less than one thousand feet apart, to be used for extinguishing fires, free of charge, and for no other purpose; and said several cities and towns shall pay to the city of Boston the expense of inserting and keeping in repair such hydrants as shall have been so inserted, upon their requisitions aforesaid, within their respective limits.

May sell water to Cambridge.

SECT. 6. The city of Boston is also authorized, if the Boston water board shall be of opinion that the supply of water is sufficient for the purpose, to sell water to the city of Cambridge, when conducted through the main pipes laid by virtue of the provisions of section two of this act, upon such terms as may be agreed upon by the city council of the city of Cambridge and said Boston water board.

Subject to acceptance by city council.

SECT. 7. This act shall take effect upon its acceptance by the city council of the city of Boston; but the powers conferred by section one of this act may be exercised without any obligation on the part of said city to exercise the powers conferred by section two.

March 19, 1880.

[1846, 167; 1865, 131; 1881, 129.]

1880. — CHAPTER 128.

AN ACT TO PROVIDE FOR THE TAKING OF LAND AND THE ERECTION THEREON OF A COURT-HOUSE FOR THE COUNTY OF SUFFOLK.

Be it enacted, etc.:

Aldermen may take land for a court-house.

SECTION 1. The board of aldermen of the city of Boston, acting as county commissioners for the county of Suffolk, are hereby authorized and empowered to take and hold, by purchase or otherwise, so much land as they may deem necessary for the erection thereon of a court-house by the city of Boston for the use of the courts of the Commonwealth within and for the county of Suffolk, and other purposes incidental thereto, and for a court-house yard for the same; and they may appropriate and use therefor any land now owned by the city.

To file in registry of deeds a description of land taken.

SECT. 2. The board of aldermen shall, within thirty days from the time when they shall take any parcel or parcels of land under this act, file, in the office of the register of deeds for said county, and cause to be recorded, a description of the land so taken, as certain as is required in a common conveyance of land, with a statement of the purpose for which it is taken; which description and statement shall be signed by the mayor of the city; and the city of Boston shall be liable to pay all damages that shall be sustained by any person or persons by reason of the taking of such land as aforesaid; such damages to be ascertained and determined in the manner provided for ascertaining and determining damages in case of the laying out, altering, or discontinuing, of ways within the city of Boston.

Liability for damages.

If aldermen fail to take land, it may be taken by commissioners

SECT. 3. In case the board of aldermen of the city of Boston shall fail, before the first day of December, eighteen hundred and eighty, to exercise the powers granted them in the foregoing sections, such

powers shall thereupon cease and determine. It shall then be lawful for the supreme judicial court, or any justice thereof, sitting in the county of Suffolk, either in term time or vacation, upon the petition of any ten citizens of the city of Boston, and after notice to said city, to appoint three discreet men, inhabitants of said city, to be a board of commissioners, who, upon such appointment, and upon being duly sworn to the performance of their duties, shall give public notice of their appointment, shall proceed to consider what site within said city is most suitable for a court-house for the county of Suffolk, and shall take, upon the site found to be most suitable by them, so much land as they may deem necessary for the purpose of a court-house for the use of the courts of the commonwealth within and for the county of Suffolk, and other purposes incidental thereto, and for a court-house yard for the same. The said taking shall set forth the parcel or parcels of land taken, with a description thereof as certain as is required in a common conveyance of land, and such taking being duly signed by the said commissioners or a majority thereof, and returned to the supreme judicial court, sitting in said county of Suffolk, and having been confirmed by said court, or any justice thereof, shall thereupon vest the title to said land in the city of Boston, and render the said city liable to pay all damages for the said taking, as fully and completely in all respects as if said land had been taken by the board of aldermen acting as county commissioners by virtue of sections one and two of this act, in the manner and within the time herein provided. It shall thereupon be the duty of the mayor of the city of Boston to file the said description of the lands so taken, with a statement of the purpose for which they have been taken, in the registry of deeds for the county of Suffolk. Said board of commissioners shall likewise estimate, determine, and assess, all damages sustained by any persons by the taking of land or by other acts of said board in the execution of the powers vested in them by this act, and shall return their award of said damages to the supreme judicial court for the county of Suffolk, with their return of such taking, and the award of said board or the majority of them being returned and accepted by said court, shall be final, and judgment shall be entered and execution issued thereon, unless either the city of Boston, or any of the parties, shall claim a trial by jury as hereinafter provided. The board of commissioners shall be entitled to a reasonable compensation for their services, to be fixed by the court, and paid by the city of Boston, and any vacancy occurring in said board of commissioners may be filled by the said court.

appointed by
the supreme ju-
dicial court.

Mayor to file de-
scription of land
so taken.

Assessment of
damages.

SECT. 4. If either the city of Boston or any of the parties claiming to have sustained damages by the taking of land or by other acts of said board of commissioners, shall be dissatisfied with the amount of damages awarded, the city of Boston, or such party, may, at the term at which such award was returned, claim, in writing, a trial in said court, and have a jury to hear and determine, at the bar of said court, all questions of fact relating to such damages, and to assess the amount thereof, in the same manner as is provided by law with respect to damages sustained by reason of the laying out of ways in the city of Boston; and the verdict of such jury being accepted and recorded by the said court, shall be final and conclusive, and judgment shall be rendered and execution issued thereon.

Parties ag-
grieved may
claim trial by
jury.

SECT. 5. It shall be the duty of the city of Boston, acting by its city council, to erect within a reasonable time after any taking authorized by this act, a suitable court-house for the use of the courts of the commonwealth in and for the county of Suffolk, and for other purposes incidental thereto, upon the land so taken.

Court-house to
be erected with-
in a reasonable
time.

SECT. 6. The provisions of law in relation to the assessment of

Betterment laws
not to apply.

betterments shall not be applicable to any of the takings of land under this act.

SECT. 7. This act shall take effect upon its passage.

March 22, 1880.

1880. — CHAPTER 134.

AN ACT AUTHORIZING THE CITY OF BOSTON TO MAKE ORDINANCES IN RELATION TO VEHICLES AND THEIR LOADS IN SAID CITY.

Be it enacted, etc. :

May regulate by ordinances the size and shape of vehicles and their loads.

2 Cush. 502.

109 Mass. 355.

R.O. c. 26, § 46.

SECTION 1. The city council of the city of Boston may make such ordinances in relation to the size and shape of all carriages, wagons, carts, trucks, sleighs, sleds, and other vehicles, and their loads, passing through the streets and public ways of said city, as it may deem necessary for the public safety and convenience, with penalties for the violation thereof, not exceeding twenty dollars for each offence.

SECT. 2. This act shall take effect upon its passage.

March 24, 1880.

1880. — CHAPTER 144.

AN ACT TO AUTHORIZE THE CONNECTION OF THE ARNOLD ARBORETUM WITH THE SYSTEM OF PARKS OF THE CITY OF BOSTON.

Be it enacted, etc. :

Park commissioners may take land dedicated to use of the Arnold Arboretum.

May lease portion of land taken to Harvard College.

SECTION 1. In case the board of park commissioners of the city of Boston deem it desirable to take that tract of land in that part of the city of Boston known as West Roxbury, held by the president and fellows of Harvard College, and by them dedicated to the use of the Arnold Arboretum, so called, together with certain adjoining tracts, the property of other parties, deemed by said commissioners convenient and necessary for use in connection therewith, for the purposes and under the powers and limitations set forth in chapter one hundred and eighty-five of the acts of eighteen hundred and seventy-five, and acts in addition thereto and amendment thereof, the city of Boston is hereby authorized to lease such portion of said arboretum, and adjoining tracts so taken, as the said board of park commissioners may deem not necessary for use as park-ways and grounds, to the president and fellows of Harvard College, to be held by them to the same uses and purposes as the arboretum is now held under the trusts created by the wills of Benjamin Bussey and of James Arnold; and for such a term, and upon such mutual restrictions, reservations, covenants, and conditions, as to the use thereof by the public, in connection with the uses of the same under said trusts, and as to the rights, duties, and obligations, of the contracting parties, as may be agreed upon between said commissioners and said president and fellows. The board of park commissioners, on the part of the city of Boston, and the president, on behalf of the president and fellows of Harvard College, are respectively authorized to execute and deliver said lease.

SECT. 2. This act shall take effect upon its passage.

March 29, 1880.

[1875, 185.]

1880. — CHAPTER 159.

AN ACT IN RELATION TO CHELSEA BRIDGE.

Be it enacted, etc. :

SECTION 1. Upon the payment of the sum of twenty-five thousand dollars by the city of Chelsea to the city of Boston, it shall thereupon be the duty of the city of Boston to forever maintain and keep in repair the north-easterly draw and draw-piers of Chelsea bridge, and also such portion of the bridge as may be included within the piers when re-located.

Boston to maintain certain parts of Chelsea bridge, upon payment of \$25,000 by Chelsea to Boston.

Upon the payment aforesaid, the city of Boston shall, in addition to its existing liability, under the laws of this Commonwealth, for damages resulting from defects in said bridge, be likewise liable, under said laws, for all such defects in that portion of said bridge whereof by this act it assumes the maintenance and repair.

Liability for defects in bridge.

SECT. 2. For the purpose of reconstructing said Chelsea bridge, under the provisions of chapter one hundred and six of the laws of the year eighteen hundred and seventy-six, the city of Boston shall have, with reference to that portion of said bridge the maintenance and repair of which was newly imposed upon the city of Boston by chapter forty-one of the laws of the year eighteen hundred and seventy-eight, and that portion to be maintained and kept in repair under the first section of this act, all the powers, with reference to said portions, conferred by said chapter one hundred and six of the laws of the year eighteen hundred and seventy-six, upon the city of Chelsea. The city of Boston is authorized, at its discretion, to construct a temporary carriage-way, in addition to the footway mentioned in section five of chapter one hundred and six of the laws of eighteen hundred and seventy-six, with the exemption from liability therein set forth.

Powers of Boston in reconstruction of bridge.

Temporary carriage-way.

SECT. 3. Said city of Boston is further authorized to build a temporary structure upon which the Lynn and Boston Railroad Company may run its cars at its own risk, while said city is rebuilding any portion of said bridge, or said railroad company may build and use said temporary structure itself, subject to the approval of the harbor commissioners: *provided*, that said city shall not be liable to any person or corporation by reason of maintaining said temporary structure, or by reason of any defect therein; and *provided, also*, that nothing contained in this section shall be construed to prohibit said city from closing said bridge, or any portion thereof, to public travel, whenever it shall become necessary in the construction thereof.

May build temporary structure for Lynn and Boston Railroad.

Proviso.

Proviso.

SECT. 4. Nothing in this act shall permit any obstruction of the main channel of Mystic river by such temporary structures or otherwise.

Channel of Mystic river not to be obstructed.

SECT. 5. This act shall take effect upon its passage.

March 31, 1880.

[1876, 106; 1878, 41.]

1880. — CHAPTER 174.

AN ACT TO INCORPORATE THE TRUSTEES OF THE CITY HOSPITAL OF THE CITY OF BOSTON.

Be it enacted, etc. :

SECTION 1. The trustees of the city hospital of the city of Boston, for the time being, are hereby made a corporation by the name of The

Trustees of the city hospital incorporated.

Trustees of the City Hospital of the City of Boston; and said trustees, and their successors in office, shall continue a body corporate for the purposes hereinafter set forth, with all the powers and privileges, and subject to all the duties, restrictions, and liabilities, in the general laws relating to such corporations.

May hold real and personal estate not exceeding \$1,000,000.

Money to be invested by city treasurer.

Trustees to be seven in number.

Appointment of trustees.

Subject to removal for cause.

Organization of board.

Proviso.

Trustees to have general care and control of hospital.

SECT. 2. Said corporation shall have authority to take and hold real and personal estate to an amount not exceeding one million dollars, which may be given, granted, bequeathed, or devised, to it, and accepted by the trustees, for the benefit of the city hospital of the city of Boston or any purpose connected therewith. Money received by it shall be invested by the treasurer of the city of Boston under the direction of the finance committee of said city; and all securities belonging to said corporation shall be placed in the custody of said treasurer: *provided*, always, that both the principal and income thereof shall be appropriated according to the terms of the donation, devise, or bequest, under the direction of said corporation.

SECT. 3. The trustees of the city hospital shall be seven in number. In the month of April in the year eighteen hundred and eighty, and annually, thereafter, in the month of January, the city council shall elect, by concurrent vote of the two branches, one member of the board of aldermen, and one member of the common council, to be members of said board of trustees, to hold office during the remainder of the municipal year in which they are elected, and until others are elected in their places. And in the month of April, in the year eighteen hundred and eighty, the mayor shall appoint, subject to the confirmation of the city council, five citizens of Boston, not members of the city council, to be members of the board of trustees of the city hospital, one of whom shall hold office for five years, one for four years, one for three years, and one for two years, and one for one year; and upon such election, and such appointment and confirmation, the terms of office of the trustees of the city hospital then holding office shall cease and determine. And annually, thereafter, in the month of April, in each year, the mayor shall appoint, subject to the confirmation of the city council, one citizen at large as a trustee of the city hospital, to serve for a term of five years from the first Monday in May, in the year in which he shall be appointed. The trustees shall at all times be subject to removal from office for cause, by a vote of two-thirds of each branch of the city council present and voting thereon. Whenever any vacancy shall occur in said board of trustees by death, resignation, or otherwise, said vacancy shall be filled by the election or appointment, in the manner aforesaid, of another trustee, who shall hold office for the residue of the unexpired term. No member of said board of trustees shall receive any pecuniary compensation for his services.

SECT. 4. The members of said board shall meet for organization annually, on the first Monday of May, and choose one of their number as president. They shall have power to make such rules and regulations relating to said city hospital, and its officers and servants, and to fix and enforce penalties for the violation of such rules and regulations, as they may deem expedient: *provided*, that the same shall not be inconsistent with the provisions of this act, and shall be subject at all times to such limitations, restrictions, and amendments, as the city council may direct.

SECT. 5. The said trustees shall, subject to the direction of the city council, by ordinance or otherwise, have the general care and control of the city hospital and of all branches thereof, which have been, or which may hereafter be, established, together with the buildings and rooms containing the same, and the fixtures and furniture

connected therewith, and also of the expenditures of the money appropriated therefor.

SECT. 6. The said board of trustees may appoint a superintendent, with such assistants and subordinate officers as they may think necessary or expedient, and may remove the same, and fix their compensation: *provided*, that the amount thus paid shall not exceed the sum appropriated by the city council for that item of expense, and the income of any moneys which may lawfully be appropriated for the same purpose from funds or property held by said trustees under the provisions of this act.

May appoint superintendent and assistants, and fix their compensation. *Proviso.*

SECT. 7. The city council shall have power to pass such ordinances, not inconsistent herewith, or repugnant to other laws of the commonwealth, as to the duties and authority of said board, as they may, from time to time, deem expedient.

City council may regulate by ordinance, the duties and authority of the board.

SECT. 8. This act shall take effect upon its passage.

April 7, 1880.

[1858, 113.]

1880. — CHAPTER 222.

AN ACT IN RELATION TO THE PUBLIC LIBRARY OF THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. The city of Boston is hereby granted perpetual right to hold, occupy, and control, free of rent or charge by the commonwealth, for the purpose of erecting and maintaining thereon a building for the use of the public library of said city, a parcel of land now owned by the commonwealth and situated in that part of said city called the Back Bay, on the southerly corner of Dartmouth and Boylston streets, bounded north-westerly by Boylston street two hundred and sixty-four feet, north-easterly by Dartmouth street one hundred and twenty-five feet, south-easterly by a private passage-way twenty-five feet in width, two hundred and sixty-four feet, and south-westerly by other land of the commonwealth one hundred and twenty-five feet, and containing thirty-three thousand square feet, more or less, together with all the right, title, and interest, of the commonwealth in that part of said passage-way adjoining said parcel, and with such rights as the commonwealth may possess to close the same. The said library building and land shall be under the care and control of the trustees of the public library of the city of Boston, under the provisions of chapter one hundred and fourteen of the acts of the year eighteen hundred and seventy-eight. This grant is made, however, subject to the following stipulations, namely: — the city of Boston shall, within three years from the date of the passage of this act, commence the erection of a library building on said parcel of land, and shall, in respect to such erection, be subject to the restrictions heretofore contained in other conveyances by the commonwealth of its land upon Boylston street, and shall, thereafter, appropriately lay out and cultivate such ground around it as may not be occupied by the building itself, and shall, thereafter, keep said grounds and building in a neat and ornamental condition; and that upon the opening of said library all the citizens of the commonwealth shall have the perpetual right of access thereto free of charge, under such reasonable regulations as said trustees may from time to time establish.

City may occupy land for public library building.

Building and land to be under control of the trustees.

Conditions of grant.

All citizens of the State to have access to library.

SECT. 2. In case the city of Boston shall, after due notice given, fail to commence the erection of the library building within three years, or shall use said land, or any portion thereof, for any purpose

Building to be erected within three years. Time extended, 1883, 141.

foreign to the uses for which it is granted, it shall be lawful for the commonwealth, by its proper officers and servants, to take appropriate action in the courts of the commonwealth, to the end that said parcel of land, or portion thereof, may be declared forfeited by the city of Boston, and the title therein be revested in the Commonwealth.

SECT. 8. This act shall take effect upon its passage.

April 23, 1880.

[1853, 88; 1878, 114; 1882, 143; 1883, 141.]

1880. — CHAPTER 225.

AN ACT IN RELATION TO REGISTRATION AND ELECTIONS IN THE CITY OF BOSTON.

Be it enacted, etc.:

Amendments to
1878, 243.

SECTION 1. Chapter two hundred and forty-three of the acts of the year eighteen hundred and seventy-eight is amended as follows:—

Lists of pre-
cincts to be
printed for dis-
tribution.

First, by striking out all of section six of said act, down to, and including, the word "precincts" in the fifth and sixth lines, substituting in place thereof the following:—"The assessors of taxes of the city of Boston shall, on or before the fifteenth day of July in each year, cause street lists of the several voting precincts in said city to be printed and compiled in pamphlet form for public distribution. Said compilation shall be by precincts, separately, not exceeding fifty copies for each, arranged."

Second, by striking out section eight of said act.

Corrections of
assessed names
upon tax bills.

Third, by substituting in place of section nine of said act the following:—"SECTION 9. All corrections of assessed names upon tax bills shall be made by the board of assessors, the registrars of voters, or assistant registrars, on a form of a certificate specially prepared for the purpose; and all tax bills so changed, together with the certificates, shall be stamped with an official stamp of the board making such change, before the person represented by such tax bill shall be allowed to register as a voter. All certificates of names so changed shall be sent to the collector of taxes, who shall, as soon as may be, after the first day of January in each year, make corresponding changes or corrections on the list of assessed polls committed to him by the board of assessors. The collector shall also transmit said certificates to the board of assessors, who shall, before the first day of March in each year, make corresponding changes or corrections on the street books in their department."

Fourth, by inserting in line one of section eleven of said act after the word "ward," the words "or precinct."

Identity and
qualifications of
applicant for
registration.

Fifth, by amending section fifteen so that it shall read as follows:—"If the registrars are not satisfied as to the identity or qualifications of an applicant for registration, they may make such examination of such applicant, under oath, as they may consider necessary or proper to verify the fact that he is possessed of the constitutional requirements of a voter; and said registrars, as soon after the second day of September in such year as may be necessary, shall hold evening sessions in or near each ward, for the performance of any and all the duties imposed upon them by the provisions of this act: *provided, however*, that they shall hold not less than ten evening sessions of not less than three hours' duration prior to the annual state and municipal elections. The collector of taxes shall assign a deputy to be present at all such meetings held before the annual state election for the collection of taxes. He shall also give public notice

thereof by advertisements in at least two daily papers printed in Boston, one of which shall be an evening paper, and by a circular or card addressed to each person assessed for a poll tax only, and delivered through the mail or otherwise. Said circulars or cards shall be delivered on or before the second day of September in each year. No tax bill for poll taxes only shall hereafter be distributed to or for the person assessed before payment thereof."

SECT. 2. All requirements of law in regard to the preparation, publication, posting, or use, of ward lists in the city of Boston, shall be held to be complied with by the employment, in each precinct, of precinct lists, of like description in all respects, of all the legal voters therein. Precinct lists of voters to be posted.

SECT. 3. Section six of chapter sixty of the acts of the year eighteen hundred and seventy-four, as amended by section three of chapter two hundred and thirty-five of the acts of the year eighteen hundred and seventy-seven, is amended so as to read as follows:—
"The registrars shall, at least twenty-four days before the day of the annual state election, cause printed lists of the voters in each precinct to be posted in one or more places in such precinct, with notices thereon, stating the place and hours in which they or the assistant registrars for such precinct will hold sessions to correct and revise the lists. If the assistant registrars refuse to place the name of any person on the voting list, he may appeal to the board of registrars of voters." Amendments to 1877, 60, § 6.

SECT. 4. The provisions of chapter two hundred and twenty-five of the acts of the year eighteen hundred and seventy-six are, as far as they relate to the city of Boston, extended to the voting precincts therein in place of the wards. Amendments to 1876, 226.

SECT. 5. Whenever there is a vacancy in the board of aldermen or common council in the city of Boston, by failure to elect, removal from the city, death, resignation, or otherwise, it shall be the duty of said board of aldermen to issue their warrant in due form for an election to fill such vacancy, at such time and place as they may deem advisable; but, in case of a vacancy in the common council, such warrant shall not be issued until the board of aldermen receive official notice of such vacancy. Election to fill vacancy in board of aldermen.

SECT. 6. Sections twenty-one, twenty-two, twenty-three, and twenty-five, of chapter four hundred and forty-eight of the acts of the year eighteen hundred and fifty-four, and all acts and parts of acts inconsistent with this act are hereby repealed. Repeal of 1854, 445, §§ 21, 22, 23, 25, etc.

April 22, 1880.

[1874, 60; 1878, 243; 1879, 163; 1881, 221.]

1881. — CHAPTER 22.

AN ACT IN RELATION TO HOLDING FUNDS CONTRIBUTED FOR THE RELIEF OF MEMBERS OF THE BOSTON PROTECTIVE DEPARTMENT AND THEIR FAMILIES.

Be it enacted, etc.:

SECTION 1. The provisions of section four of chapter one hundred and seven of the acts of the year eighteen hundred and eighty, being "an act in relation to pensioning disabled members of the fire department of the city of Boston and for other purposes," shall be held to apply to the members of the Boston protective department, in the same manner, and to the same extent, as to the members of the fire department. Disabled members may be pensioned.

SECT. 2. This act shall take effect upon its passage.

February 16, 1881.

[1874, 61; 1880, 107.]

1881. — CHAPTER 92.

AN ACT IN ADDITION TO "AN ACT FOR THE LAYING OUT OF PUBLIC PARKS IN OR NEAR THE CITY OF BOSTON."

Be it enacted, etc. :

Sea-wall may be built in Charles river between Cragie's bridge and West Boston bridge, and grounds enclosed may be filled up for a park.

Lines of sea-wall to constitute the harbor lines.

If injurious to flow of current, remedy to be provided.

Land to be taken by city and to be used solely for a public park.

Extensions from water-line of park not to be permitted.

Proviso.

SECTION 1. The board of park commissioners of the city of Boston is hereby authorized and empowered to build a sea-wall on the Boston side of the lower basin of the Charles river, between Cragie's bridge and West Boston bridge, and to fill up the grounds enclosed by said wall for the purposes of a public park, in accordance with the provisions of chapter one hundred and eighty-five of the acts of the year eighteen hundred and seventy-five. The said sea-wall shall be on or within the following lines:—Beginning at a point on the southerly side of Cragie's bridge distant two hundred feet perpendicular from the westerly line of Charles street, and running southerly by a line parallel to said Charles street to a point opposite the first angle in said street; thence turning a similar angle and running southerly by a line parallel to and two hundred feet perpendicular again from said Charles street to a point opposite another angle in said street, near Fruit street; thence turning a similar angle and running southerly by a straight line two hundred feet perpendicular from and parallel to the next adjoining portion of said Charles street to West Boston bridge. The lines of the sea-wall aforesaid shall constitute the harbor lines beyond which no wharf, pier, or other structure, and no filling in, shall be extended into or over the tide-water of the said basin, excepting such landing-places as the said park commissioners shall build with the approval of the board of harbor and land commissioners; and if the construction of said sea-wall and the filling in of the grounds thereby enclosed shall, in the opinion of said harbor and land commissioners, cause a projection injurious to the flow of the current and the protection of the harbor, then the said park commissioners, or the city of Boston, shall make suitable remedy or provision for the same, by connecting the line of the said sea-wall with the present sea-wall in such manner as the said board of harbor and land commissioners shall approve, and may occupy and use any spaces thereby enclosed for the same purposes for which said sea-wall and filling in is authorized.

SECT. 2. This act is made subject to the following conditions and restrictions, namely:—The city of Boston, or the said board of park commissioners, shall take, by purchase or otherwise, all the land, dock, and wharf property, lying westerly of said Charles street between said bridges, under the provisions of said chapter one hundred and eighty-five of the acts of the year eighteen hundred and seventy-five, which, together with the grounds above authorized to be enclosed and filled up, shall be used solely for the purposes of a public park, facing and abutting upon the said Charles river basin. And when the city of Boston or the said park commissioners shall have taken the said land and wharf property, and built the said sea-wall, and fitted up the said grounds as a park as aforesaid, and so long as the same shall be used solely as said park, the commonwealth will not authorize or permit any person or corporation to construct any extensions or erections from or contiguous to the water line of said park, except with the consent of said park commissioners or said city of Boston: *provided, also*, that the city of Boston or said park commissioners shall build the said sea-wall, and fill and fit up the said grounds, during the five years from and after the passage of this act.

SECT. 3. This act shall take effect upon its passage.

March 16, 1881.

[1875, 185; 1882, 168.]

1881. — CHAPTER 107.

AN ACT TO EXTEND THE TIME WITHIN WHICH THE MASSACHUSETTS INSTITUTE OF TECHNOLOGY MAY ERECT BUILDINGS ON CERTAIN LAND IN THE CITY OF BOSTON.

Be it enacted, etc. :

SECTION 1. Chapter one hundred and thirty-one of the acts of the year eighteen hundred and seventy-seven is hereby so amended that the time within which the Massachusetts institute of technology may erect a suitable building for the permanent use of said institute, upon the land described in chapter one hundred and seventy-four of the acts of the year eighteen hundred and seventy-three, shall be extended for the term of five years from the eleventh day of April, in the year eighteen hundred and eighty-one.

Time for erection of buildings, extended.

SECT. 2. The Massachusetts institute of technology is hereby authorized, at any time within said term of five years, to exchange said parcel of land within the city of Boston for other land, or for adequate consideration to release its interest in said parcel to said city, and, on said exchange or release, said city of Boston may hold, occupy, and control, said parcel of land forever, free from rent or charge by the commonwealth, upon condition that it shall forever be kept open as a public park by said city; said lot to be subject to the limitations and stipulations relative to lands of the commonwealth on the south of Boylston street, and to be reserved from sale forever; and upon the further condition that the city of Boston shall acquire, by purchase or otherwise, the remainder of the trapezoid of land of which said parcel is a part, lying westerly thereof and between said parcel and Dartmouth street, and shall appropriate it to the same purpose.¹

May exchange land with city of Boston.

1873, 174.

SECT. 3. In case said city shall appropriate said parcel of land, hereby granted, to any purpose foreign to that for which it is granted, then the commonwealth, after due notice given, may enter upon said parcel and take possession thereof, and the right of the city of Boston to the use, occupation, and control, of said lot, shall thereupon cease.

Commonwealth to take land, if appropriated by city to any other use.

March 18, 1881.

1881. — CHAPTER 129.

AN ACT IN ADDITION TO THE ACTS FOR THE PURPOSE OF SUPPLYING THE CITY OF BOSTON WITH PURE WATER.

Be it enacted, etc. :

SECTION 1. For the purpose of supplying water to its inhabitants, and especially for the purpose of increasing the supply of water which can be used for its high-service, the city of Boston is hereby authorized, by and through the agency of the Boston water board, to construct and maintain new reservoirs, and connect the same, by aqueducts and pipes, with its present sources of water supply, and with its present reservoirs, aqueducts, and pipes, and to construct and maintain new works and pumping stations in connection with said new reservoirs; and, for this purpose, may take and hold, by purchase or otherwise, any lands or real estate necessary therefor, situate in the cities of Boston or Newton, or in the town of Brookline, and lay said aqueducts and pipes over or under any water-course or any streets, turnpike roads, railroads, highways or other ways, in such

Water supply for high-service.

May take and hold lands.

¹ The trapezoid of land here described, was conveyed to the city by deed of the Institute of Technology, June 30, 1882 (Suffolk deeds, lib. 1568, fol. 148); by deed of the Commonwealth, June 30, 1882 (lib. 1568, fol. 146), and by deed of the Trustees of the Museum of Fine Arts, July 3, 1882 (lib. 1568, fol. 149). By an order of the city council, approved Feb. 21, 1883, it was named Copley square.

May dig up streets.

Subject to reasonable regulations made by Newton and Brookline.

Streets to be restored to good order and condition.

Newton and Brookline to be indemnified for damages.

Provided.

Boston to pay all land damages, etc.

Hydrants to be inserted at request of Newton or Brookline.

Subject to acceptance by city council of Boston.

manner as not to unnecessarily obstruct or impede the travel thereon ; and may enter upon and dig up any such roads, streets, or ways, for the purpose of laying down said pipes beneath the surface thereof, and for maintaining and repairing the same ; but always in such manner and with such care as not to render the roads, streets, and ways, unnecessarily unsafe or inconvenient to the public travel thereon. And said city of Boston, in performing said work, shall not unnecessarily interfere with any existing sewers, water or gas pipes, and shall be subject to such reasonable regulations as to time, place, and manner, of digging up any streets or ways of public travel for the purposes aforesaid, and the laying of said pipes, as shall be made by the city council of the city of Newton or the selectmen of the town of Brookline, within the limits of said city or town, for the protection of their rights of drainage and sewerage therein and the public rights of passage thereon.

SECT. 2. Whenever the city of Boston shall dig up any street or way as aforesaid, it shall restore the same to as good order and condition as the same shall be in when such digging commenced ; and the city of Boston shall at all times indemnify and save harmless the city of Newton and the town of Brookline against all damage which may be recovered against them respectively, and shall reimburse to them respectively all expenses which they shall incur by reason of any defect or want of repair in any street or way, caused by the construction of said aqueduct or the laying of said pipes, or by the maintaining or repairing the same : *provided*, that the city of Boston shall have due and reasonable notice of all claims for such damages or injury, and opportunity to make a legal defence thereto.

SECT. 3. The city of Boston shall be liable to pay all damages that shall be sustained by any persons in their property by the taking of any land or real estate or the laying of said pipes as aforesaid ; and any person sustaining damage as aforesaid may have the same ascertained, determined, collected, and paid, in the manner which is provided in sections six, seven, and eight, of chapter one hundred and sixty-seven of the acts of the year eighteen hundred and forty-six.

SECT. 4. Upon requisition by the city council of the city of Newton, or the board of selectmen of the town of Brookline, prior to the laying of the said aqueduct and pipes through their respective limits, the city of Boston shall insert a number of hydrants in said pipes at points not less than one thousand feet apart, to be used for extinguishing fires, free of charge, and for no other purpose ; and said city or town shall pay to the city of Boston the expense of inserting and keeping in repair such hydrants as shall have been so inserted upon their requisitions aforesaid within their respective limits.

SECT. 5. This act shall take effect upon its acceptance by the city council of the city of Boston.¹

March 24, 1881.

[1846, 167 ; 1849, 187 ; 1864, 271 ; 1865, 131 ; 1871, 185 ; 1872, 177 ; 1873, 287.]

1881. — CHAPTER 197.

AN ACT TO AUTHORIZE THE CONSTRUCTION OF THE CHARLES-RIVER PROMENADE.

Be it enacted, etc. :

City may construct plank

SECTION 1. The city of Boston is authorized to lay out and construct continuously or in sections, from time to time, and to maintain

¹ This act has not been accepted by the city council.

for public use, a plank way or sidewalk of a width not exceeding fifteen feet, over the waters of Charles river outside and adjoining the sea-wall now constructed between Berkeley street extended and a point near Hereford street extended, and outside and adjoining any sea-wall that may be constructed to the new park in extension of said sea-wall already built: *provided, however*, that, with the assent of the harbor and land commissioners, such plank way or sidewalk may be laid out, constructed, and maintained, as aforesaid, to a width not exceeding twenty feet.

way over waters of Charles river.

Proviso.

SECT. 2. The city of Boston is authorized to make all such reasonable rules and regulations in regard to such sidewalk or promenade and the access to the water therefrom and from the water thereto, as may be expedient and proper; to appoint all necessary officers and agents to enforce such rules and regulations, and to construct and maintain, for the public use in connection with such sidewalk or promenade, suitable landing-places.

May make rules concerning use of walk.

SECT. 3. Any real estate in the city of Boston, which, in the opinion of the board of street commissioners of said city, shall receive any benefit and advantage from the laying out of such sidewalk or promenade, or any sections of the same, under the provisions of this act, beyond the general advantages to all real estate in the city of Boston, may, after like notice to all parties interested as is provided by law to be given by said board in cases of laying out streets in said city, be assessed by said board for a proportional share of the expense of such laying out: *provided*, that the entire amount so assessed upon any estate shall not exceed one-half of the amount which said board shall adjudge to be the whole benefit received by it. All general laws in relation to the assessment of damages and betterments in the case of the laying out of a street, highway, or other way, in the city of Boston, shall be applicable to the laying out of the way herein authorized.

Assessments for betterments.

Proviso.

SECT. 4. In the exercise of the powers granted by this act, the city of Boston shall be subject to the provisions of the four hundred and thirty-second chapter of the acts of the year eighteen hundred and sixty-nine, and all general laws applicable thereto.

Subject to provisions of 1869, c. 432, and general laws applicable.

SECT. 5. When the plank way or sidewalk herein authorized shall have been laid out by said city and constructed as herein provided, the commonwealth will not authorize any person or corporation to construct any extension or erection from or contiguous to the water line of said way or walk.

Extension or erection contiguous to water line not to be permitted.

SECT. 6. This act shall take effect on its acceptance by the city council of the city of Boston.¹

April 11, 1881.

1881. — CHAPTER 205.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO ATTACH METERS TO BUILDINGS WHICH IT SUPPLIES WITH WATER.

Be it enacted, etc.:

SECTION 1. The city of Boston is hereby authorized, at its own expense, to attach and maintain a sufficient water meter to the main service pipe in any building or buildings which may be supplied with water by said city under authority of law; and where any building situate within the city of Boston shall be supplied with water by said city through a meter, and there shall be more than one tenement contained in said building, or where different rooms in the same building

May attach water meters to service pipes.

¹ This act has not been accepted by the city council.

Payment of
water rates.

Proviso.

are leased to or occupied by different persons taking water through separate fixtures, the owners or lessees of said building shall be liable to said city for the entire amount of water so supplied to said building: *provided*, that, in the case of dwelling-houses containing more than one tenement, and not more than three tenements, it shall be necessary to obtain the consent of the owner thereof before attaching such meter.

SECT. 2. This act shall take effect upon its passage.

April 15, 1881.

1881. — CHAPTER 221.

AN ACT TO AMEND "AN ACT IN RELATION TO REGISTRATION AND ELECTIONS IN THE CITY OF BOSTON."

Be it enacted, etc. :

Amendment to
1878, 243, § 16.

SECTION 1. Section sixteen of chapter two hundred and forty-three of the acts of the year eighteen hundred and seventy-eight is hereby amended by striking out the first word of said section, and inserting therein the word "all," and inserting before the word "the," in the fourth line, the words "any of," and by inserting after the word "lists," in the fourth line thereof, the words "between the close of registration and the day of the next succeeding election."

SECT. 2. This act shall take effect upon its passage.

April 26, 1881.

[1878, 243.]

1881. — CHAPTER 229.

AN ACT RELATING TO ORDINANCES OF THE CITY OF BOSTON.

Be it enacted, etc. :

P.S. 27, § 23.
May prescribe
duties and fix
compensation of
certain officers,
by ordinance.

SECTION 1. The city council of Boston may pass ordinances prescribing the duties and fixing the compensation of officers for whose appointment or election they are now, or may hereafter be, authorized to provide, and every such officer, unless otherwise provided by statute, may be empowered, by ordinance, to hold office for one year from the day in the year of his election or appointment fixed by ordinance, and until his successor shall be elected or appointed and qualified, unless sooner removed by concurrent vote of each branch of the city council.

Certain ordi-
nances con-
firmed.

SECT. 2. The ordinances of said city, so far as they provide for a term of office longer than one year, for members of the board of health and of the board of fire commissioners, are hereby confirmed, and the persons now acting under said ordinances as members of said boards, shall, severally, hold their offices, and have the powers and duties thereof, until their successors are qualified.

Enacting style.

SECT. 3. The enacting style and method of publishing the ordinances of said city shall be such as the city shall by ordinance prescribe.

Fines to be paid
into treasury.

SECT. 4. All fines and penalties for the breach of any ordinance of said city shall be paid into the treasury for the use of said city unless otherwise provided by statute or ordinance.

SECT. 5. This act shall take effect upon its passage.

April 30, 1881.

[1854, 448, §§ 35, 38.]

1881. — CHAPTER 278.

AN ACT TO AUTHORIZE THE ESTABLISHMENT AND MAINTENANCE OF A DOG SHELTER, BY THE SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, IN THE CITY OF BOSTON.

Be it enacted, etc. :

SECTION 1. The board of aldermen of the city of Boston may authorize the Society for the Prevention of Cruelty to Animals to establish and maintain in said city a shelter for the detention of unlicensed or stray dogs which may be seized under the provisions of this act, and may make any necessary agreement with said society for the reception, sheltering, keeping and feeding, or humane killing or otherwise disposing of such dogs: *provided, however*, that no such shelter shall be established or maintained when an adjoining owner objects thereto.

Board of aldermen may authorize dog shelter.

SECT. 2. The mayor of said city shall, annually, within ten days from the first day of July, issue a warrant to one or more police-officers, or any officer of said Society for the Prevention of Cruelty to Animals, directing them to proceed forthwith to seize and deliver at such shelter all dogs found running at large within said city of Boston, not licensed and collared according to law, and to enter a complaint against the owners or keepers thereof. Such officers, other than those under regular pay from said city, shall receive one dollar from the treasurer of said city for each dog so taken and delivered as aforesaid. And all bills for such service shall be approved as provided in section seven of chapter one hundred and thirty of the acts of the year one thousand eight hundred and sixty-seven.

Dogs running at large to be delivered at shelter.

SECT. 3. Every dog so taken and received by such shelter, as herein before provided, shall be there kept, and provided with suitable food, and the owner thereof may redeem the same at any time within five days, by proving title to said dog, by showing that the same has been duly licensed according to law, and by paying the fee fixed by the aldermen of said city. At the expiration of five days said society may cause said dog to be humanely killed, or, upon the payment of the license fee required by law, it may sell or otherwise dispose of the same.

Dogs to be kept five days and, if not redeemed, to be humanely killed.

SECT. 4. For keeping and sheltering any dog, under the provisions of this act, said society shall not be liable to pay any license fee, nor shall it be liable for keeping any dog at such shelter which is unlicensed.

No license fee required.

SECT. 5. The aldermen of said city shall have the power to prescribe the price at which any dog taken and kept in such shelter may be redeemed by the owner thereof; and all moneys received by said society for the redemption and sale of any dogs kept at such shelter shall be paid to the treasurer of said city.

Aldermen to fix price of redemption.

May 13, 1881.

1881. — CHAPTER 303.

AN ACT TO REQUIRE THE CITY OF BOSTON TO ABATE A NUISANCE IN MYSTIC LOWER POND, FOR PROTECTING THE PURITY OF THE WATERS OF SAID POND, AND FOR THE PRESERVATION OF THE PUBLIC HEALTH, ESPECIALLY IN THE TOWNS OF MEDFORD AND ARLINGTON.

Be it enacted, etc. :

SECTION 1. The city of Boston is hereby directed to cease emptying sewage, or waters, or substances containing polluting matter or properties, into Mystic lower pond, through its sewer constructed

City of Boston to cease emptying sewage into Mystic lower pond.

	<p>under chapter two hundred and two of the acts of eighteen hundred and seventy-five, or otherwise, and is hereby also directed to take up and remove so much of said sewer as extends into said pond, and also that part thereof between said pond and a point on the line of said sewer at least two hundred feet from said pond, within three months from the passage of this act, and, thereafter, no person or persons, no municipal nor other corporation or corporations, shall discharge or divert into said pond any sewage or offensive matter, waters, or substances containing such properties or of such quality as shall of themselves, or in connection with other matter, create a nuisance in said Mystic lower pond, or endanger the public health; but nothing herein shall be construed to prohibit the city of Boston from discharging such water as shall be collected in its said sewer into said Mystic lower pond, after said city shall have purified, cleansed, and freed, the said waters from all offensive, contaminating, noxious, and polluting, properties and substances, so that said waters shall not of themselves, or in connection with other matter, create a nuisance therein or endanger the public health: <i>provided</i>, that said waters, so purified, shall flow for a distance of at least two hundred feet immediately before their entrance into said pond in an open drain over a gravelly or sandy bottom.</p>
Proviso.	
To cause pond to be cleansed.	<p>SECT. 2. The city of Boston is hereby directed to cause said Mystic lower pond to be cleansed of such impurities prejudicial to the public health as, in the judgment of the state board of health, lunacy, and charity, it shall have caused, and at such time and in such manner and extent as shall be approved by the state board of health, lunacy, and charity, and said city shall pay the expense incurred thereby; and, should the said board deem the same to be necessary, and so decide, the city of Boston may erect a dam at the outlet of the lower Mystic pond, and may exclude tide-water from said pond, and may raise the height of the water in said pond, and may take land therefor; and any person suffering any damage shall have the right to have damages assessed therefor, as provided in section three of this act.</p>
Damages.	
May take lands in Woburn and Winchester.	<p>SECT. 3. The city of Boston is hereby authorized to take and hold, for the time necessary to carry out the provisions of this act, such lands in the towns of Woburn or Winchester, on or near the line of said sewer, as it shall deem necessary, and may construct such canals, basins, tanks, passage-ways, and works, as may be necessary to enable said city to treat said sewage and waters, in order to free the said waters of all noxious, dangerous, and offensive, matter and properties.</p>
Compensation to owners.	<p>Said city shall make compensation to the owners for such lands as it shall take under this act, and, if said city and said owners do not agree, any person aggrieved shall be entitled to have his damages ascertained by a jury, upon petition to the county commissioners of Middlesex county, the proceedings upon which shall be like those provided for the recovery of damages in the taking of lands for highways.</p>
May raise money necessary for the purpose.	<p>SECT. 4. Said city of Boston is hereby authorized to raise and appropriate, in such manner as its city government shall determine, such sums of money as shall be incurred by said city in carrying out the provisions of this act.</p>
Limitations.	<p>SECT. 5. This act shall be subject to the same limitations expressed in section twelve of chapter two hundred and two of the acts of the year eighteen hundred and seventy-five.</p>
Jurisdiction in equity of supreme judicial court.	<p>SECT. 6. The supreme judicial court, or any justice thereof, in term time or vacation, sitting in equity for either of the counties of Suffolk or Middlesex, shall have jurisdiction in equity to enforce the provisions of this act by injunction, or by any other appropriate</p>

equitable remedy, on complaint of the selectmen of either of the towns of Medford or Arlington.

SECT. 7. This act shall take effect upon its passage.

May 13, 1881.

[1875, 202.]

1882. — CHAPTER 101.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO PERMIT THE ERECTION OF CERTAIN FRAME OR WOODEN BUILDINGS WITHIN THE BUILDING LIMITS OF SAID CITY.

Be it enacted, etc.:

The city council of the city of Boston may authorize the erection of frame or wooden buildings for market purposes, within the building limits of said city, upon the conditions, that such buildings shall not exceed twenty-seven feet in height, that all external parts thereof shall be covered with iron or other non-combustible material, and that the material used and the mode of erection shall be approved by the inspector of buildings of said city.

Erection of frame or wooden buildings for market purposes within the building limits.

March 21, 1882.

1882. — CHAPTER 125.

AN ACT AUTHORIZING THE APPOINTMENT OF ADDITIONAL PROBATION OFFICERS IN THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. The mayor and aldermen of the city of Boston may, if in their judgment it seems proper so to do, appoint two additional probation officers in the manner and subject to the provisions prescribed in section seventy-eight of chapter two hundred and twelve of the public statutes.

Additional probation officers may be appointed.

SECT. 2. Section seventy-eight of chapter two hundred and twelve of the public statutes is hereby amended by striking out in the second line the words "annually in the month of May and."

Amendment to P.S. 212, § 78.

March 28, 1882.

1882. — CHAPTER 136.

AN ACT IN RELATION TO THE NORMAL SCHOOL OF THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. The school committee of the city of Boston may provide instruction in the principles and methods of teaching, for the benefit of teachers in the service of said city, said instruction to be given in connection with the normal school of said city.

Teachers may be taught in Normal school.

SECT. 2. The action of the school committee of said city heretofore, in providing instruction for the benefit of teachers in the service of said city, is ratified, confirmed, and made valid, to the same extent as if this act had been passed prior to such action.

Action of school committee confirmed.

SECT. 3. This act shall take effect upon its passage.

April 5, 1882.

[1874, 167.]

1882. — CHAPTER 138.

AN ACT IN RELATION TO THE CHARLES RIVER AND WARREN BRIDGES.

Be it enacted, etc. :

Interest of commonwealth in bridges, to be conveyed to city of Boston.

SECTION 1. The governor, with the advice and consent of the council, is empowered, in the name and on behalf of the commonwealth, to execute, acknowledge, and deliver, to the city of Boston, a good and sufficient instrument transferring to said city and its assigns all the right, title, and interest, of the commonwealth in and to the Charles river bridge and Warren bridge, the approaches to the same, the materials of which said bridges are composed, and in and to all things pertaining to said bridges belonging to the commonwealth. Such transfer shall not be made until there is constructed, subject to the provisions of law, and opened for public use at the expense of said city, a new bridge which, in the opinion of the governor and council, will afford facilities as ample as those provided by the said existing bridges ; and upon such transfer, the said city may discontinue said now existing bridges or either of them.

No change without consent of commissioners.

SECT. 2. No change shall be made in the piles of said bridges without the approval of the board of harbor and land commissioners.

Taking of tolls not authorized.

SECT. 3. Nothing herein contained shall be construed to grant authority to the city of Boston or its assigns to take tolls on said bridges or on the new bridge which may be constructed.

April 5, 1882.

[1874, 259.]

1882. — CHAPTER 143.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO TAKE LAND FOR A PUBLIC LIBRARY.

Be it enacted, etc. :

May take land for a public library.

SECTION 1. The city of Boston is hereby authorized and empowered to take and hold by purchase, or otherwise, at any time within two years from the passage of this act, so much land within its limits as it may deem necessary for the erection thereon of a public library and for a yard for the same ; and said city may appropriate and use therefor any land now owned by it.

To have recorded in registry of deeds, description of land taken.

SECT. 2. Said city shall, within thirty days from the time when it shall take any parcel or parcels of land under this act, file in the office of the register of deeds for the county of Suffolk, and cause to be recorded therein, a description of the land so taken, as certain as is required in a common conveyance of land, with a statement of the purpose for which said land is taken ; which description and statement shall be signed by the mayor of said city. The said city shall be liable to pay all damages that shall be sustained by any person by reason of the taking of land as aforesaid ; such damages to be ascertained and determined in the manner provided for ascertaining and determining damages in case of the laying out, altering, or discontinuing of ways within the city of Boston.

Laws of betterments not to apply.

SECT. 3. The provisions of law in relation to the assessment of betterments shall not be applicable to the taking of land under this act.

SECT. 4. This act shall take effect upon its passage.

April 10, 1882.

[1853, 38 ; 1857, 11 ; 1878, 114 ; 1880, 222.]

1882. — CHAPTER 155.

AN ACT TO AUTHORIZE THE CITIES OF BOSTON AND CAMBRIDGE TO
CONSTRUCT AND MAINTAIN A BRIDGE OVER CHARLES RIVER.

Be it enacted, etc. :

SECTION 1. The cities of Boston and Cambridge are authorized to construct a bridge and avenue across Charles river, from a point on Beacon street in Boston, to a point in Cambridge west of the westerly line of the Boston and Albany railroad. The location of said bridge and avenue shall be determined by the city councils of said cities acting separately, subject to the approval of the board of harbor and land commissioners so far as it affects the harbor, and subject, moreover, to the limitation that the line thereof shall not be north-east of a line drawn from the junction of Beacon street and West Chester park in Boston, to the junction of the harbor line with Front street, extended, in Cambridge, nor south-west of a line drawn from the junction of Beacon street, Brookline avenue, and Brighton avenue, in Boston, to the junction of the Boston and Albany railroad with Putnam avenue, extended, in Cambridge. Said bridge shall have a draw, with a clear opening of at least thirty-eight feet in width, for the passage of vessels.

Bridge over
Charles river
between Boston
and Cambridge.

Draw to be
thirty-eight
feet wide.

SECT. 2. Said bridge shall be constructed of such materials as the said cities may agree upon, but on iron or stone piers and abutments, to be of such size, shape, and construction, and be at such distance from one another, as the said board of harbor and land commissioners, upon application made by said cities upon such notice as said board may deem proper, and after a hearing thereon, shall determine and certify to each of said cities; and no pier or abutment shall be built except in accordance with such certificate. The avenue, with the exception of the portion between the harbor lines, may be constructed of solid filling, with the approval of the said board of harbor and land commissioners. Neither city, separately, shall enter upon the construction of said bridge, but they shall jointly proceed to construct the same in accordance with plans to be submitted to, and approved by, the councils of said cities concurrently, and by the said board of harbor and land commissioners.

Materials of
structure.

Bridge to be
built by cities
jointly.

SECT. 3. Each city may, within its own limits, purchase or otherwise take lands, not exceeding one hundred and twenty-five feet in width, for said bridge and avenue; and all the proceedings relating to such taking shall be the same as in the case of land taking for highways within said cities respectively, with like remedies to all parties interested; and betterments may be assessed for the construction of said bridge and avenue in each city in like manner as for the laying out of highways under the betterment acts in force in each city respectively, with like remedies to all parties interested.

Each city may
take lands.

SECT. 4. Each of said cities shall bear the expense, including land damages, of constructing such part of said bridge and avenue as lies upon its own side of the Charles river; but the expense of constructing so much thereof, including the draw, as shall lie between the harbor lines, shall be borne by both cities in such proportion as may be agreed upon by the two cities. The care and management of said bridge and draw shall be vested in a board of commissioners consisting of one person from each city, chosen in accordance with such ordinances as said cities shall respectively establish, and, until such commissioners are chosen, the mayors of said cities shall *ex officio* constitute such commissioners.

Distribution of
expense of
building.

Commissioners
to be appointed.

SECT. 5. Said avenue and bridge, when completed, shall be a public highway, and the expense of maintaining in repair that part thereof

Expense of
keeping in
repair.

which lies between the harbor lines, and of keeping the draw in repair, and of tending the draw day and night for the passage of vessels, shall be borne equally by the two cities, and all damages recovered by reason of any defect or want of repair in that part of the bridge between the harbor lines, or in the draw, shall be paid equally by said cities.

Avenue may cross railroad at grade.

SECT. 6. Said avenue may cross, at grade, any railroad operated by steam, and the board of railroad commissioners shall, upon the application of either city or any railroad corporation, prescribe the details of the crossing, and certify to the parties its decision, which decision may be enforced by proper process in equity.

Bonds may be issued by each city.

SECT. 7. Each of said cities may issue bonds in payment, in whole or in part, of the expense incurred by it under this act. Such bonds may bear interest, payable semi-annually, at a rate not exceeding six per cent. per annum, and shall be payable at such time not less than ten, nor more than thirty, years from their respective dates, as shall be determined by said cities respectively, and expressed upon the face of the bonds. Nothing, however, contained herein, shall warrant an increase of municipal indebtedness beyond the limitations prescribed by section four of chapter twenty-nine of the public statutes.

To be constructed within ten years.

SECT. 8. This act shall be void unless that portion of the bridge between the harbor lines shall be constructed within ten years from the passage hereof.

April 14, 1882.

1882. — CHAPTER 168.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO ISSUE A PUBLIC PARK LOAN.

Be it enacted, etc.:

May issue a "public park loan."

For the purpose of defraying the expenses incurred under the provisions of chapter one hundred and eighty-five of the acts of the year eighteen hundred and seventy-five, entitled "an act for the laying out of public parks in or near the city of Boston," and of any acts in amendment thereof or addition thereto, the city council of the city of Boston shall have authority to issue, from time to time, and to an amount not exceeding the amount actually expended for the purchase or taking of lands or flats for park purposes, bonds or certificates of debt, to be denominated on the face thereof "public park loan," to bear interest at a rate not exceeding six per centum per annum, and to be payable at such periods as said city council may determine, not exceeding thirty years from their respective dates. For the redemption of such loan said city council shall establish a sinking-fund sufficient, with the accumulating interest, to provide for its payment at maturity. All sums received for betterments from the laying out of public parks shall be paid into said sinking-fund until such fund shall amount to a sum sufficient, with its accumulation, to pay, at maturity, the bonds for the security of which the fund was established.

Sinking-fund to be established.

April 19, 1882.

[1875, 185.]

1882. — CHAPTER 173.

AN ACT RELATING TO THE INCORPORATION AND LOCATIONS OF THE
CHARLES RIVER STREET RAILWAY COMPANY.

Be it enacted, etc.:

SECTION 1. The certificate issued by the secretary of the common-wealth, on the twenty-sixth day of August in the year eighteen hundred and eighty-one, certifying that Samuel L. Montague, Charles E. Raymond, Daniel U. Chamberlain, and others, their associates and successors, were legally established as a corporation, under the name of the Charles River Street Railway Company, for the purpose of locating, constructing, maintaining, and operating, a street railway for the conveyance of persons, with all the powers and privileges, and subject to all the duties, liabilities, and restrictions, set forth in all general laws which then were, or hereafter might be, in force relating to street railway companies, is ratified and confirmed; and said corporation shall be deemed and taken to have been then duly established, and it shall exercise and enjoy the aforesaid powers and privileges, and shall be subject to the aforesaid duties, liabilities, and restrictions, except so far as the same are modified and controlled by the provisions of this act.

Charter confirmed.

SECT. 2. All locations heretofore granted to said corporation by the boards of aldermen of the cities of Cambridge and Somerville are ratified and confirmed, and shall be deemed and taken to have been duly granted, and said corporation shall have power to maintain and use the same, subject to the provisions of section forty-eight of chapter one hundred and thirteen of the public statutes: *provided*, the tracks of said corporation shall not cross the Fitchburg railroad at grade without the consent of the board of railroad commissioners.

Locations confirmed.

Proviso.

SECT. 3. Said corporation may construct, maintain, and use, its railway with single or double tracks, and with convenient and suitable turnouts, from a point on Coolidge avenue in the town of Watertown, opposite the southerly entrance to Mount Auburn cemetery, over said avenue to Mount Auburn street in the city of Cambridge, there to connect with the location heretofore granted to said corporation; also, from a point on Brookline bridge at the dividing line between the cities of Cambridge and Boston, over said bridge and Brookline street, to and across Brighton avenue in the city of Boston, to and into Essex street in the town of Brookline, to a point at or near Cottage Farm station on the Boston and Albany railroad; and, subject to the proviso contained in section two in regard to crossing the Fitchburg railroad at grade, upon and over such other highways in said cities of Boston, Cambridge, and Somerville, and the towns of Watertown and Brookline, as locations thereon may hereafter, from time to time, be granted by the boards of aldermen of said cities or the selectmen of said towns.

May construct railway with single or double tracks.

SECT. 4. The board of aldermen of the city of Boston may from time to time, upon petition of said Charles River Street Railway Company, after due notice and hearing, grant to said corporation the right to enter upon and use the tracks of any other street railway corporation in said city, and compensation shall be made therefor, as provided by law; and said Charles River Street Railway Company, or any other party interested, may appeal from any decision of said board of aldermen, made upon any such petition, to the board of railroad commissioners, and said board of railroad commissioners may decide upon any such petition, and, in case it grants the same, may determine the extent of use of tracks, and the number and routes of cars.

May be allowed to enter upon tracks of other street railway corporations.

SECT. 5. This act shall take effect upon its passage.

April 19, 1882.

1882. — CHAPTER 204.

AN ACT TO AMEND THE CHARTER OF THE CITY OF BOSTON IN RELATION TO GENERAL MEETINGS.

Be it enacted, etc.:

General meetings may be warned upon requisition of twenty-five voters of each ward.

Section sixty of chapter four hundred and forty-eight of the acts of the year eighteen hundred and fifty-four is amended so as to read as follows: "General meetings of the citizens qualified to vote in city affairs may from time to time be held to consult upon the common good, to give instructions to their representatives, and to take all lawful measures to obtain a redress of any grievances according to the right secured to the people by the constitution of this commonwealth. Such meetings shall and may be duly warned by the board of aldermen upon the requisition of twenty-five qualified voters of each ward of said city. If the board of aldermen refuses or neglects to call any such meeting, any justice of the municipal court of said city may, upon a like requisition, by a warrant under his hand in such form, and so served, executed and returned, as he shall determine, call such meeting at such time and in such manner as he may direct, and shall appoint some one to preside therein until the same shall be duly organized by the choice of clerk and chairman."

May 5, 1882.

[1854, 448.]

1882. — CHAPTER 216.

AN ACT IN RELATION TO ASSISTANT HARBOR-MASTERS.

Be it enacted, etc.:

Assistant harbor-masters may be appointed.

SECTION 1. Assistant harbor-masters may be appointed for any harbor in the commonwealth, by the mayor and aldermen of the city, or by the selectmen of the town, in which such harbor is situated. Such mayor and aldermen, or selectmen, shall fix the compensation of such assistants, to be paid by their respective city or town, and the assistants so appointed shall continue in office until the appointment of their successors, or until their appointments shall have been revoked.

To be under direction of harbor-master.

SECT. 2. Such assistants shall be subject to the direction and control of the harbor-master of their respective city or town, and shall have all the powers, and be subject to all the duties, of said harbor-master, whether given by general or special acts.

SECT. 3. This act shall take effect upon its passage.

May 12, 1882.

[1862, 64.]

1882. — CHAPTER 222.

AN ACT IN RELATION TO ADVERTISING APPLICATIONS FOR LIQUOR LICENSES IN THE CITY OF BOSTON.

Be it enacted, etc.:

Advertising applications for liquor licenses in Boston.

SECTION 1. Section six of chapter one hundred of the public statutes is amended by inserting after the words "printed therein," in the fourth line thereof, the words "and in the Charlestown, East Boston, South Boston, Roxbury, West Roxbury, Dorchester, and Brighton, districts, respectively, in said city, in at least one weekly

newspaper published in the district where the premises for which the license is asked are located, if there be any so published."

SECT. 2. This act shall take effect upon its passage.

May 12, 1882.

[P.S. 100, § 6.]

1882. — CHAPTER 226.

AN ACT IN RELATION TO BLANKS FOR CERTAIN COURT RETURNS, AND TO REPORTS OF ARRESTS.

Be it enacted, etc. :

SECTION 1. The blank forms of the returns required by sections thirty-four and thirty-five of chapter two hundred and nineteen of the public statutes shall be furnished by the commissioners of prisons, and shall be in such form as said commissioners shall prescribe.

Blank forms of returns to be furnished by commissioners of prisons.

SECT. 2. The police commissioners of the city of Boston, the city marshals or chiefs of police of other cities and of towns, and every officer making an arrest in a city or town not having a chief of police, shall make monthly reports to the commissioners of prisons, showing the number of persons of each sex arrested in their several cities and towns; such returns to be classified according to offences. Said commissioners may, in their annual report, present such statistics compiled from said reports as they shall deem expedient.

Monthly reports of arrests to be made by police commissioners of Boston.

SECT. 3. Section fifteen of chapter fifteen of the public statutes, and section thirty-six of chapter two hundred and nineteen of the public statutes, are repealed.

Repeal of P.S. 15, § 15; 219, § 36.

May 16, 1882.

[1878, 244.]

1882. — CHAPTER 252.

AN ACT RELATING TO THE CONSTRUCTION, USE, AND INSPECTION OF BUILDINGS IN THE CITY OF BOSTON.

Be it enacted, etc. :

SECTION 1. The city of Boston may, by ordinance, regulate the building, management, and inspection, of elevators, hoist-ways, and elevator shafts, in said city.

Building, etc., of elevators may be regulated. R.O. c. 43.

SECT. 2. The said city may, by ordinance, require the registration of all persons carrying on the business of plumbing in said city, and prescribe rules and regulations for the materials, construction, alteration, and inspection, of all pipes, tanks, faucets, valves, and other fixtures, by and through which water and sewage is used and carried, and provide that no such pipes, tanks, faucets, valves, or other fixtures, shall be placed in any building in said city, except in accordance with plans which shall be approved by the inspector of buildings of said city.

Registration of plumbers. Ordinances, 1883, c. 3.

SECT. 3. No person shall erect, place, construct, or cause to be erected, placed, or constructed, or begin to erect, place, or construct, any window or other projection into or over any public highway, street, bridge, or square, in said city, except that the board of aldermen, after due notice and hearing before said board or a committee thereof, may permit the building of a window or other projection, as aforesaid, in such manner as shall be approved by the inspector of buildings: *provided*, that such window or other projection shall not affect the vested right of any person.

Windows, etc., not to be built into or over streets, except by permission of board of aldermen. 128 Mass. 330.

Proviso.

Thickness of
external walls
other than of
brick or stone.

SECT. 4. In the erection of any building in said city within the building limits, so called, established by the city council, if the material of which the external wall is composed is other than brick or stone, the thickness and method of construction shall be such as the inspector of buildings shall determine.

Returns relative
to steam boilers.

SECT. 5. The facts and returns relative to steam boilers required to be ascertained and made to the tax commissioner, by section ninety-two of chapter eleven of the public statutes, shall be ascertained and made, in the city of Boston, by the inspector of buildings and not by the assessors.

Penalties.

SECT. 6. The said city may impose penalties not exceeding fifty dollars for each offence, for any violation of the provisions contained in sections one and two of this act.

Liability for
violation of pro-
visions of section
three.

SECT. 7. Any person who shall violate the provisions of section three of this act shall, upon the application of the inspector of buildings of said city, be liable to the processes of law and equity set forth in section twenty-three of chapter three hundred and seventy-one of the acts of the year eighteen hundred and seventy-two.

Repeal of 1881,
117.

SECT. 8. Chapter one hundred and seventeen of the acts of the year eighteen hundred and eighty-one is hereby repealed.

SECT. 9. This act shall take effect upon its passage.

May 25, 1882.

[1871, 280; 1872, 260, 371; 1873, 298; 1876, 176.]

1882. — CHAPTER 256.

AN ACT FOR THE PRESERVATION OF BOSTON HARBOR AND OF THE PUBLIC HEALTH IN THE CITY OF BOSTON.

Be it enacted, etc. :

Sewage not to be
discharged near
Calf pasture in
Dorchester bay.

SECTION 1. No part of the contents of the main sewer now or hereafter to be constructed running south-easterly from the direction of Charles river in the city of Boston shall be discharged at or near the shore of the Calf pasture, so called, in Dorchester bay, or at any place in Boston harbor or vicinity, except at Moon island. The supreme judicial court or any justice thereof, upon the petition of not less than ten taxable inhabitants of the city of Boston, may restrain by injunction, or otherwise, any violation of the provisions of this act.

SECT. 2. This act shall take effect upon its passage.

May 26, 1882.

[1876, 136; 1879, 230.]

1882. — CHAPTER 258.

AN ACT RELATING TO THE FEES FOR LICENSES OF KEEPERS OF INTELLIGENCE OFFICES, DEALERS IN VARIOUS ARTICLES, AND KEEPERS OF BILLIARD, POOL AND SIPPIO ROOMS AND BOWLING-ALLEYS.

Be it enacted, etc. :

Fees for
licenses.

SECTION 1. Section one hundred and twenty-four of chapter one hundred and two of the public statutes, relating to licenses granted to keepers of intelligence offices, dealers in junk, old metals, and second-hand articles, pawnbrokers, and keepers of billiard saloons, pool or sippio tables or rooms, and bowling-alleys, is amended by striking out the last sentence of said section, beginning with the words, "The clerk," and substituting therefor the following words :

"The board issuing such a license shall receive for the use of the city or town for each license such sum not less than two dollars, and in the city of Boston for a pawnbroker's license such sum not less than ten dollars, as the board shall deem reasonable."

SECT. 2. This act shall take effect upon its passage.

May 26, 1882.

[1878, 244; P. S. 102, § 124.]

1882. — CHAPTER 269.

AN ACT TO PROVIDE FOR NOTICE OF THE PLACE OF STORAGE OF GUN-POWDER AND OTHER EXPLOSIVE COMPOUNDS.

Be it enacted, etc.:

SECTION 1. Any person, who shall hereafter store or keep for sale gunpowder or any other explosive compound above the quantity of one pound in any building in any city or town of this commonwealth shall, immediately on the receipt of such gunpowder or other explosive compound, deliver to the chief engineer of the fire department of such city or town, except in Boston, and in Boston to the board of fire commissioners, a statement in writing of the amount of such gunpowder or other explosive compound kept, or proposed to be kept, together with a description of the building and part of the building in which the same is kept, or proposed to be kept, sufficiently accurate for identification; and no person shall store, or keep for sale, gunpowder or any other explosive compound in any other place: *provided*, that in any town where there is no fire department, such statement shall be delivered to one of the firewards in such town.

SECT. 2. Any person violating any of the provisions of this act shall be punished by a fine not exceeding one hundred dollars.

SECT. 3. This act shall take effect upon its passage.

May 26, 1882.

[1883, 151; 1837, 99; 1841, 58.]

1883. — CHAPTER 14.

AN ACT RELATIVE TO THE PENSIONING OF MEMBERS OF THE POLICE DEPARTMENT OF THE CITY OF BOSTON.

Be it enacted, etc.:

Section five of chapter two hundred and forty-four of the acts of the year eighteen hundred and seventy-eight, relative to the pensioning of members of the police department of the city of Boston, is amended by inserting after the word "captain" in the fourth line thereof, the word "lieutenant."

February 15, 1883.

[1878, 244; 1879, 97.]

1883. — CHAPTER 51.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO TAKE LAND FOR PUBLIC INSTITUTIONS.

Be it enacted, etc.:

SECTION 1. The city of Boston is authorized to take and hold by purchase or otherwise, at any time within two years from the passage

of this act, so much land within its limits or on the islands in Boston harbor as it may deem necessary for the public institutions of said city and the county of Suffolk.

To file and have recorded in the registry of deeds, within thirty days, a description of land taken.

Liability for damages.

SECT. 2. Said city shall, within thirty days from the time when it shall take any land under this act, file in the office of the register of deeds for the county in which such land is situated, and cause to be recorded therein, a description of the land so taken, as certain as is required in a common conveyance of land, with a statement of the purpose for which said land is taken; which description and statement shall be signed by the mayor of said city. The city of Boston shall be liable to pay all damages that shall be sustained by any person by reason of the taking of land as aforesaid, and, in case the parties cannot agree, the damages shall be assessed by a jury at the bar of the superior court, on petition to be filed in the clerk's office of said court, in the county in which said land is situated, within two years next succeeding the filing of the description before mentioned, and sections twenty-eight and twenty-nine of chapter forty-nine of the public statutes, shall apply to the assessment of damages under this act.

SECT. 3. This act shall take effect upon its passage.

March 17, 1883.

1883. — CHAPTER 87.

AN ACT TO AUTHORIZE THE MAYOR AND ALDERMEN OF SOMERVILLE TO CONSTRUCT A SEWER IN CAMBRIDGE AND CRESCENT STREETS IN BOSTON.

Be it enacted, etc. :

Mayor and aldermen of Somerville may maintain a sewer through Charlestown district in Boston.

SECTION 1. The mayor and aldermen of the city of Somerville are hereby authorized to construct and maintain a common sewer which shall extend from any point in Pearl street or Crescent street in Somerville, through any portion of said streets, or either of them, into Crescent street and Cambridge street in that part of Boston formerly known as Charlestown, and thence into Washington street in Somerville, so as to connect with the present main drain or common sewer in the last named street.

Assessments for betterments.

SECT. 2. The mayor and aldermen, under the provisions of chapter fifty of the public statutes, may assess a proportional part of the charge of such construction upon such estates in Somerville as are benefited thereby; which assessments shall constitute a lien on the estates assessed, and be enforced in the manner provided in said chapter and with the same rights reserved to persons aggrieved by such assessments as are therein provided.

SECT. 3. This act shall take effect upon its passage.

March 29, 1883.

1883 — CHAPTER 91.

AN ACT RELATING TO THE DUTIES OF ASSESSORS OF TAXES.

Be it enacted, etc. :

Returns and copies of valuable books to be deposited in office of secretary of the commonwealth.

SECTION 1. The returns and copies of assessors' books, required by sections fifty-four and fifty-five of chapter eleven of the public statutes to be deposited by the assessors in the office of the secretary of the commonwealth, shall hereafter be deposited as follows: copies of the assessors' books shall be deposited as required on or before the first day of October in the year eighteen hundred and eighty-three, and in every third year thereafter; and, in such years, the secretary of the commonwealth shall furnish, to the cities and towns, duplicate

copies of the blank books required for this purpose. And the other returns specified in said sections shall be so deposited on or before the first day of October in each year: *provided*, that in the case of the city of Boston all said returns may be deposited in the office of the secretary on or before the first day of November in the several years respectively. Proviso.

SECT. 2. This act shall take effect upon its passage.

March 29, 1883.

[P.S. 11, §§ 54, 55.]

1883. — CHAPTER 140.

AN ACT IN RELATION TO WARREN BRIDGE.

Be it enacted, etc.:

SECTION 1. The city of Boston may make such changes in the location of Warren bridge, or any part thereof, and the approaches thereto, as the public convenience and necessity may require; and may reconstruct said bridge with a width not exceeding eighty feet, or construct a new bridge and approaches thereto, not exceeding the aforesaid width in any new location so made; and for such purposes the said city may take lands and other property as it may deem necessary. Location may be changed.
Old bridge may be reconstructed or new bridge built.

SECT. 2. All the right, title, and interest, of the commonwealth in and to the said Warren bridge, the approaches thereto, and the materials of which it is composed, are hereby transferred to the city of Boston. Right of commonwealth transferred to city.

SECT. 3. In the exercise of the powers granted by this act the city of Boston shall be subject to the provisions of chapter nineteen of the public statutes, and to all general laws applicable thereto. Subject to P.S. 19.

SECT. 4. Said city shall, within thirty days after it takes any land under this act, file in the registry of deeds for the county of Suffolk, and cause to be recorded therein, a description of the land so taken, as certain as is required in a conveyance of land, with a statement of the purpose for which such land is taken; which description and statement shall be signed by the mayor of said city. The said city shall be liable to pay all damages sustained by any person in his property by reason of the taking of land or other property as aforesaid, and, in case the parties cannot agree, the damages shall be assessed by a jury at the bar of the superior court for the county of Suffolk, on petition, to be filed in the office of the clerk of said court within two years next succeeding the filing of the description before mentioned; and sections twenty-eight and twenty-nine of chapter forty-nine of the public statutes shall apply to the assessment of damages under this act. Description of land taken, to be filed and recorded in registry of deeds.
Liability for damages.

SECT. 5. This act shall take effect upon its passage.

April 21, 1883.

[1874, 259; 1880, 125; 1882, 138; 1883, 140; 1884, 327.]

1883. — CHAPTER 141.

AN ACT RELATING TO THE LIMIT OF TIME FOR THE ERECTION OF A LIBRARY BUILDING BY THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. The provisions of chapter two hundred and twenty-two of the acts of the year eighteen hundred and eighty, relating to Term extended for erection of library building.

the grant of land on the Back bay to the city of Boston for the purpose of erecting thereon a building for the public library, are hereby extended and continued in force for a further term of three years from the date of the expiration of the time limited in the act above cited.

SECT. 2. This act shall take effect upon its passage.

April 21, 1883.

[1880, 222; 1882, 148.]

1883. — CHAPTER 144.

AN ACT TO ABATE A NUISANCE IN THE CITY OF BOSTON AND FOR THE PRESERVATION OF THE PUBLIC HEALTH IN SAID CITY.

Be it enacted, etc.:

Nuisance may be abated.

SECTION 1. The board of health of the city of Boston may order any or all the owners of the flats and of the creek connected therewith of Prison Point bay, so called, situated in that part of Boston called Charlestown and lying north of the Fitchburg railroad and the old state prison grounds west of Canal street south of Cambridge street and north and east of the boundary line between Boston and Somerville, to fill up their said flats, basin, and creek, with good earth or other suitable material, to a grade not less than ten feet above mean low water, in order to secure the abatement of the existing nuisance therein, and for the preservation of the public health of said city, and may also direct in such orders within what time any specific portion thereof shall be filled.

Grade to be not less than ten feet above mean low water.

Order to be in writing and served upon record owner.

SECT. 2. Such orders shall be made in writing and served, by any person competent to serve a notice in a civil suit personally, on the record owner, or a copy of the order may be left at the last and usual place of abode of such owner if he is known and within the state. If he is unknown, or without the state, the notice may be served by advertising in one or more public newspapers published in Boston, in such manner and for such length of time as the board of health of said city may direct.

City may fill up territory if owner fails to comply within thirty days.

SECT. 3. If any owner of any portion of the territory described in the first section of this act fails to begin to comply with any such order within thirty days after service of the notice aforesaid, or fails, after such beginning, to continue to the satisfaction of said board of health, the said board shall so determine, and thereupon the city of Boston shall fill up the said territory or portion thereof, as hereinafter required, and all expenses incurred thereby shall constitute a lien upon said territory or upon the portion thereof so filled, and upon the land made by said filling and upon all buildings thereon which may be assessed by the board of aldermen of said city of Boston; and the assessment so made, with the charges for cost and interest, may be enforced and collected by the city collector of said city, in the manner provided by law for the collection of taxes upon real estate.

Expense to be a lien upon territory.

Apportionment of expense.

SECT. 4. If the owner or owners of any land so assessed for such expenses desire to have the amount of said assessment apportioned, he or they shall give notice thereof in writing, to the board of aldermen of said city, at any time before a demand is made upon him or them for the payment thereof; and said board shall thereupon apportion said amount into three equal parts, which apportionment shall be certified to the assessors of said city; and the said assessors shall add one of said equal parts, with six per cent. interest thereon, to the annual tax of said land each year, for the three years next ensuing.

SECT. 5. If the owner or owners of any parcel of land, the grade of which is raised under the third section of this act, is dissatisfied with the assessment of the expenses of raising the grade of his or their land, he or they may, within twelve months after receiving notice of such assessment, apply for a jury, by petition to the superior court for the county of Suffolk, and have the expenses assessed in the same manner as betterments for the laying out of streets and highways in the county of Suffolk may be assessed.

Owner dissatisfied may apply for a jury.

SECT. 6. If the jury do not reduce the amount of the assessment complained of, the respondent shall recover costs against the petitioner, which costs shall be a lien upon the estate and be collected in the same manner as the assessment; but, if the jury reduce the amount of the assessment, the petitioner shall recover costs; and all assessments shall be a lien on the estate for one year after the final judgment in any suit or proceeding where the amount or validity of the same is in question, and shall be collected in the same manner as original assessments.

Costs.

SECT. 7. Said city may construct and maintain such sewers in the territory mentioned in section one of this act as it deems the public health and convenience require, and shall not obstruct the running off of the surface water naturally flowing into the territory authorized to be filled by this act, nor the water flowing into the same through any creek or other natural water-course.

City may construct and maintain sewers.

SECT. 8. The said city of Boston may lay or permit to be laid railway tracks through or across its streets, and maintain or permit them to be maintained so long as may be necessary for transporting earth and other material to fill up the territory as herein provided.

May lay railway tracks through streets.

SECT. 9. All filling and grading done under this act shall be done within two years from the passage hereof.

Work to be done within two years.

SECT. 10. Chapter two hundred and thirty-eight of the acts of the year eighteen hundred and eighty-one is hereby repealed.

Repeal of 1881, 238.

SECT. 11. This act shall take effect upon its passage.

April 24, 1883.

1883. — CHAPTER 155.

AN ACT RELATING TO THE INSPECTION OF BUILDINGS IN THE CITY OF BOSTON.

Be it enacted, etc. :

Section two of chapter three hundred and seventy-one of the acts of the year eighteen hundred and seventy-two is amended by adding at the end of the seventeenth line the words "except in case of buildings not exceeding fifteen feet in height, measured from the surface of the ground, nor exceeding five hundred feet in area, the external walls of which shall not be less than eight inches thick."

Inspection of buildings in Boston.

[1872, 371.]

April 30, 1883.

1883. — CHAPTER 173.

AN ACT TO PROVIDE AGAINST THE USE OF UNSAFE ELEVATORS.

Be it enacted, etc. :

If any elevator, whether used for freight or passengers, shall, in the judgment of the inspector of factories and public buildings of the district in which such elevator is used, or, in the city of Boston, of the inspector of buildings of said city, be unsafe or dangerous to use,

Inspection of elevators.

Notice to be placarded when elevator is unsafe.

Penalty.

or has not been constructed in the manner required by law, the said inspector shall immediately placard conspicuously upon the entrance to, or door of the cab or car of, such elevator a notice of its dangerous condition, and prohibit the use of such elevator until made safe to the satisfaction of said inspector. Any person removing such notice or operating such elevator while such notice is placarded as aforesaid, without authority from said inspector, shall be punished by a fine of not less than ten nor more than fifty dollars for each offence.

May 14, 1883.

1883. — CHAPTER 251.

AN ACT TO SECURE BETTER PROVISIONS FOR ESCAPE FROM HOTELS AND CERTAIN OTHER BUILDINGS, IN CASE OF FIRE.

Be it enacted, etc. :

Watchmen in hotels and boarding-houses.

Halls and stair-ways to be lighted.

Fire escapes.

Inspector of buildings may require further provisions.

Penalties.

SECTION 1. Every keeper of a hotel, boarding or lodging house, containing one hundred or more rooms, and being four or more stories high, shall have therein at least two competent watchmen, each properly assigned, and each on duty between the hours of nine o'clock in the afternoon and six o'clock in the forenoon. And every keeper of a hotel, boarding or lodging house, containing fifty or more, but less than one hundred, rooms, and being three stories high, shall have between said hours at least one competent watchman on duty therein. And in all such hotels or lodging-houses as are mentioned in this section, the halls and stair-ways shall be properly lighted at night, and at the head and foot of each flight of stairs shall be kept during the night a red light; and one or more proper alarms, or gongs, capable of being heard throughout the house, shall always remain easy of access and ready for use in each of said buildings, to give notice to the inmates in case of fire; and every keeper of such hotel, boarding or lodging house, shall keep posted in a conspicuous place in every sleeping-room a notice descriptive of such means of escape.

SECT. 2. Hotels used and occupied as public houses, for the reception and entertainment of guests, boarding or lodging houses, and school buildings, being three or more stories high, and accommodating, or having the means of accommodating, thirty or more persons, also factories, workshops, and manufacturing establishments, of said height, in which forty or more persons are employed, shall be supplied inside thereof with proper and sufficient means or appliances for escape, in case of fire, or apparatus for that purpose properly constructed upon the outside thereof, connected through doors or windows; all such fire-escapes shall be kept in good order and free from obstructions, and shall be approved by the inspector of factories and public buildings, or, in the city of Boston, by the inspector of buildings.

SECT. 3. The inspector of buildings in the city of Boston, the mayor and aldermen of other cities, and the selectmen of towns, shall prescribe as they deem necessary, except so far as is specifically required in the preceding sections, what additional night-watch shall be kept, and what further provisions for the prevention of fires, and for the better protection of life in case of fire, shall be made by the several keepers of hotels, boarding or lodging houses, within their respective limits; and no license shall be granted to any keeper of a hotel embraced in the provisions of this act, until the requirements thereof, so far as applicable, have been complied with.

SECT. 4. Whoever neglects or refuses to provide watchmen, as required by this act, shall be punished by a fine not exceeding one thousand dollars for each offence, and whoever violates any of the other

provisions of this act, shall be subject to the same penalty as is prescribed in section twenty-two of chapter one hundred and four of the public statutes.

[1884, 223.]

June 23, 1883.

1883. — CHAPTER 261.

AN ACT TO AUTHORIZE THE TOWN OF NATICK TO SUPPLY THE TOWN OF WELLESLEY WITH WATER.

Be it enacted, etc.:

SECTION 1. The town of Natick is authorized to furnish from its water supply, to the town of Wellesley, a supply of water for the use of said town of Wellesley and its inhabitants for the extinguishment of fires and for domestic purposes, and may contract with said town of Wellesley for such supply of water on such terms as may be agreed upon between said towns. Natick may supply Wellesley with water.

SECT. 2. The town of Natick shall not exercise its right to take water from Long pond, as provided in chapter one hundred and sixty-seven of the acts of the year eighteen hundred and forty-six, while it is supplying the inhabitants of the town of Wellesley with water under the authority of this act. Not to take water from Long pond.

SECT. 3. This act shall take effect upon its passage.

[1846, 167.]

June 28, 1883.

1883. — RESOLVES. CHAPTER 47.

RESOLVE AUTHORIZING THE GOVERNOR AND COUNCIL TO TRANSFER CERTAIN ARTICLES OF FURNITURE TO THE CITY OF BOSTON.

Resolved, That the governor and council be, and they are hereby, authorized to transfer to the city of Boston any old furniture or other articles used in or identified with the old state-house. Old state-house furniture to be transferred to city.

June 2, 1883.

1884. — CHAPTER 115.

AN ACT RELATING TO THE ELIGIBILITY TO OFFICE OF MEMBERS OF THE CITY COUNCIL OF THE CITY OF BOSTON.

Be it enacted, etc.:

No member of the city council of the city of Boston shall be eligible, during the term for which he was chosen, to any office by appointment or by election of said city council or either branch thereof, the salary of which office is payable from the city treasury. Members of city council ineligible to salaried office.

March 27, 1884.

1884. — CHAPTER 123.

AN ACT IN RELATION TO ASSESSORS AND ASSISTANT-ASSESSORS IN THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. Assessors and assistant-assessors in the city of Boston may be elected in such manner and hold office for such term, not Terms of office of assessors.

exceeding three years, as the city council of said city may by ordinance prescribe.

Ordinances confirmed.
R.O. c. 20.

SECT. 2. The ordinances of said city, so far as they provide that assessors shall be elected and shall hold office for three years, are hereby confirmed, and shall continue in force until the same are altered or repealed by the city council; and the persons elected assessors under said ordinances shall continue in office according to the tenor of such ordinances.

SECT. 3. This act shall take effect upon its passage.

March 31, 1884.

1884. — CHAPTER 140.

AN ACT TO PROVIDE FOR THE ATTENDANCE OF AN OFFICER AT THE SESSIONS OF THE PROBATE COURT AND THE COURT OF INSOLVENCY IN THE COUNTY OF SUFFOLK.

Be it enacted, etc.:

Appointment of constable to attend sessions of probate court.

SECTION 1. The judge of probate and insolvency for the county of Suffolk shall appoint a constable of the city of Boston to attend upon the sessions of the probate court and the court of insolvency for said county, and to serve such orders, precepts, and processes, issuing therefrom, or from the judge thereof, as may be committed to him; and said officer shall receive from the treasury of said county a salary of twelve hundred dollars per annum, to be paid in monthly instalments.

Salary.

SECT. 2. This act shall take effect upon its passage.

April 10, 1884.

1884. — CHAPTER 173.

AN ACT RELATING TO HARBORS AND HARBOR-MASTERS.

Be it enacted, etc.:

Amendment to P.S. c. 9, § 26, 29, 33.

SECTION 1. Sections twenty-six, twenty-nine, and thirty-three, of chapter sixty-nine of the public statutes are amended so as to read as follows:—

Vessels to be anchored according to the rules of the harbor master.

Section 26. Every master of a vessel within a harbor for which a harbor-master is appointed shall anchor his vessel according to the rules and regulations of the harbor-master, and shall move to such other place as the harbor-master may direct; and every master of a tow-boat having a vessel in tow, and every pilot having a vessel in charge, shall allow such vessel to anchor only in such place as the rules and regulations of the harbor-master provide for anchorage.

Harbor master may remove any vessel not moving when directed.

Section 29. A harbor-master may cause the removal of any vessel lying in his harbor and not moving where directed by him so to do, and the expense of such removal shall be paid by the master or owners of such vessel. In case of their neglect or refusal to pay such expense, after it has been demanded, it may be recovered in an action of contract by the harbor-master from the master or owners of such vessel, to the use of the city or town in which the harbor is situated.

Penalty.

Section 33. Whoever violates any of the provisions of the ten preceding sections, or refuses or neglects to obey the instructions of a harbor-master lawfully given, or resists a harbor-master in the execution of his duties, shall be liable to a fine of not more than fifty dollars.

SECT. 2. This act shall take effect upon its passage.

April 19, 1884.

1884. — CHAPTER 223.

AN ACT RELATING TO SAFETY APPLIANCES IN HOTELS AND PUBLIC BUILDINGS.

Be it enacted, etc.:

SECTION 1. All hotels, boarding and lodging houses, subject to the provisions of chapter two hundred and fifty-one of the acts of the year eighteen hundred and eighty-three, adopting a system of electric watch-clocks, that shall register at the office the movements of the watchman throughout the house, or adopting in the rooms any system of thermostats, or fire-alarm bells that shall be approved by the inspector of factories and public buildings, or in the city of Boston by the inspector of buildings, shall be exempt from maintaining more than one watchman, in addition to the regular night-clerk and porters.

Watchmen in
hotels and
boarding-
houses.

SECT. 2. The provisions of this act, and of said chapter two hundred and fifty-one of the acts of the year eighteen hundred and eighty-three, shall apply to family hotels.

Family hotels.

SECT. 3. This act shall take effect upon its passage.

May 8, 1884.

[1883, 251.]

1884. — CHAPTER 250.

AN ACT CONCERNING THE ELECTION OF ALDERMEN IN THE CITY OF BOSTON.

Be it enacted, etc.:

SECTION 1. The city of Boston is hereby divided into twelve aldermanic districts, and wards one and two shall constitute one district, to be known as the first aldermanic district; wards three, four, and five, shall constitute one district, to be known as the second aldermanic district; wards six, seven, and eight, shall constitute one district, to be known as the third aldermanic district; wards nine and ten shall constitute one district, to be known as the fourth aldermanic district; wards eleven and sixteen shall constitute one district, to be known as the fifth aldermanic district; wards twelve and thirteen shall constitute one district, to be known as the sixth aldermanic district; wards fourteen and fifteen shall constitute one district, to be known as the seventh aldermanic district; wards seventeen and eighteen shall constitute one district, to be known as the eighth aldermanic district; wards nineteen and twenty-two shall constitute one district, to be known as the ninth aldermanic district; wards twenty and twenty-one shall constitute one district, to be known as the tenth aldermanic district; wards twenty-three and twenty-five shall constitute one district, to be known as the eleventh aldermanic district; and ward twenty-four shall constitute one district, to be known as the twelfth aldermanic district.

Aldermanic
districts.

SECT. 2. It shall be the duty of the city council, after any new division of said city into wards, to cause a new division of the city to be made into twelve aldermanic districts, in such manner as to include in such districts whole and contiguous wards (except so far as the same may be separated by natural water-channels connected by bridge or bridges), and an equal number of voters and inhabitants as nearly as convenience permits, and until such new division be made the districts shall remain as established by this act.

New divisions
to be made by
city council.

SECT. 3. The qualified voters of each of said aldermanic districts shall, at the annual municipal election, be called upon to give in their

One alderman to
be elected in
each district.

votes for one able and discreet person, being a legal voter and an inhabitant of the district, to be a member of the board of aldermen for the ensuing year; and all such votes so given shall be sorted, counted, declared, and recorded, and returns thereof made to the city-clerk, in the same manner as is now provided by law for the choice of aldermen of said city. Whereupon, the same proceedings shall be had to ascertain and determine the person chosen as alderman for each district as are now provided by law in regard to the choice of aldermen. And a new election shall be ordered in any such district, in case of any failure by such district to elect an alderman as herein provided, or in case of any vacancy by death, resignation, or other cause; and each alderman so chosen shall be duly notified as is now provided by law.

SECT. 4. All acts and parts of acts inconsistent herewith are hereby repealed.

SECT. 5. This act shall take effect upon its passage.

May 21, 1884.

[1854, 448, § 19.]

1884. — CHAPTER 278.

AN ACT IN RELATION TO NAMES OF PUBLIC WAYS IN THE CITY OF BOSTON.

Be it enacted, etc.:

Names of public ways in Boston.

SECTION 1. The first section of chapter sixty-seven of the acts of the year eighteen hundred and eighty, relating to names of public ways in the city of Boston, is hereby amended by inserting after the word "may" in the seventh line the words "in the discretion of the board of street commissioners of said city."

Hearing to be had.

SECT. 2. The second section of said chapter sixty-seven is hereby amended by adding after the word "board" in the third line thereof the words "after a hearing upon a public notice stating the name proposed to be given."

SECT. 3. This act shall take effect upon its passage.

May 27, 1884.

[1880, 67.]

1884. — CHAPTER 325.

AN ACT TO PROVIDE FOR THE SAFE-KEEPING OF BALLOTS IN THE CITY OF BOSTON.

Be it enacted, etc.:

Preservation of ballots.

SECTION 1. It shall be duty of the board of aldermen of the city of Boston to provide at the city hall or elsewhere within the limits of said city, a suitable safe or fire-proof vault of sufficient capacity to contain all the boxes or envelopes in which the ballots cast at the state and municipal elections are deposited; the key of said safe to be in the sole custody of the city-clerk of said city.

Order for delivery of box of ballots.

SECT. 2. No box of ballots thus deposited or held shall be delivered by the custodian of said safe, except upon the written order of a duly authorized committee on elections on part of said board of aldermen, the common council, the school committee, or a committee of the legislature.

City-clerk to receive boxes containing ballots.

SECT. 3. Said city clerk shall, in person, receive the boxes or envelopes in which said ballots may be deposited, from the person or persons whose duty it may be to deliver them to the city clerk.

SECT. 4. Whoever wilfully violates any of the provisions of this act shall be punished by fine not exceeding one thousand dollars, or imprisonment in the house of correction not exceeding one year. Penalty.

SECT. 5. This act shall take effect upon its passage.

June 3, 1884.

1884. — CHAPTER 327.

AN ACT AUTHORIZING THE CITY OF BOSTON TO BUILD A PILE STRUCTURE
IN CHARLES RIVER.

Be it enacted, etc.:

SECTION 1. The city of Boston may cover with a pile structure the parcel of flats in Boston covered by the waters of Charles river and bounded by the new Warren bridge, the pile structure of the Fitchburg Railroad Company, and the line of the southerly side of the draw openings in said bridge and the bridge of said railroad company, and may maintain the same; all new piles for said structure required in addition to the existing piles shall be driven in such places as the board of harbor and land commissioners shall designate. Pile structure in
Charles river.

SECT. 2. Except as provided in this act chapter nineteen of the public statutes shall not apply to the structure herein authorized.

SECT. 3. This act shall take effect upon its passage.

June 4, 1884.

PROVISIONS

OF THE

PUBLIC STATUTES

REFERRING ESPECIALLY TO THE

CITY OF BOSTON.

[Brackets indicate that the substance of the section is given.]

CHAPTER 1.

Places ceded
to the United
States and sub-
ject to concur-
rent jurisdic-
tion.
8 Mass. 72, 77.
17 Pick. 298.
1 Met. 590.

SECTION 3. The several places ceded to the United States for forts, arsenals, dock-yards, light-houses, hospitals, or other purposes, and over which concurrent jurisdiction has been granted to the United States, shall continue to be subject to such concurrent jurisdiction, according to the tenor and effect of the respective laws by which they were ceded; that is to say,—the several public light-houses, with the lands and tenements thereunto belonging; the light-house on Light-house Island, in the harbor of Boston; . . . also the beacon on the spit of sand near the light-house in the harbor of Boston; . . . Castle Island, Governor's Island, George's Island, and Lovel's Island, in the harbor of Boston; . . . a tract of land for a navy-yard in Boston; Half-way Rock in Boston bay, for a beacon; . . . a tract of land for a light-house on Long Island Head, in Boston harbor; . . . the place called Nix's Mate, in the harbor of Boston, for a beacon; . . . a tract of land on Great Brewster Island, in the harbor of Boston; . . . sites for light-houses . . . at the Spit, in the harbor of Boston; a site for a beacon on Point Alderton Bar, in the harbor of Boston; . . . a lot of land in Boston with the buildings thereon, formerly known as the "Masonic Temple," with land adjacent thereto, not exceeding twenty-five thousand feet, for a court-house; . . . So much of Gallop's Island and of Point Alderton, in Boston harbor, as may be necessary for the construction and protection of sea-walls; two tracts of land on Long Island, in Boston harbor, for military works, sea-wall, and landing-place; several lots of land in Boston for a post-office and sub-treasury.

CHAPTER 7.

Records of votes
for governor,
etc., to be trans-
mitted.

20 Pick. 484.
16 Gray 83.

SECTION 40. City and town clerks shall, within ten days from the day of an election for governor, lieutenant-governor, councillors, senators, secretary, treasurer and receiver-general, auditor, attorney-general, representatives in congress, commissioners of insolvency, sheriffs, registers of probate and insolvency, district attorneys, or clerks of the

court, transmit copies of the records of the votes, attested by them, certified by the mayor and aldermen or selectmen, and sealed up, to the secretary of the commonwealth; they shall, in like manner, within ten days after an election for county treasurer or register of deeds, transmit such copies of the records of the votes to the county commissioners of their several counties; . . . but in Suffolk the return of votes for register of deeds shall be made to the board of aldermen of Boston . . .

Return of votes for register of deeds in Suffolk county to be made to board of aldermen of Boston.

CHAPTER 8.

SECTION 3. [This section divides the commonwealth into councillor districts.]

SECT. 5. [This section assigns the several wards in the city of Boston, as they are now constituted, to districts in the division of the commonwealth into senatorial districts.]

CHAPTER 11.

SECTION 47. In the city of Boston all taxes assessed for city or county purposes may be assessed separately as county taxes and as city taxes, or under the denomination of city taxes only, as the city council, from time to time, directs; Chelsea, Revere, and Winthrop shall not be taxed for county purposes.

County and city taxes in Boston, how assessed.

SECT. 55. [This section provides that, in the city of Boston, the returns of the valuation and assessment of the polls and estates of the inhabitants assessed, required to be deposited in the office of the secretary of the commonwealth, may be thus deposited on or before the first day of November, in the several years respectively.]

CHAPTER 14.

SECTION 160. . . . The clerk of the ancient and honorable artillery company shall furnish annually, as provided herein, to the mayor and aldermen of the city of Boston, sworn rolls of all active members belonging to the company.

Rolls of the ancient and honorable artillery company.

CHAPTER 22.

SECTION 3. In the county of Suffolk the real and personal estate which, on or before the twenty-third day of June in the year eighteen hundred and thirty-one, belonged, or was deemed and taken to belong, to said county, shall belong to and be vested in the city of Boston; and the city of Chelsea and towns of Revere and Winthrop shall have no right, title, or interest therein.

In Suffolk county, property to belong to Boston.

SECT. 6. In the county of Suffolk, the court-houses, jails, house of correction, fire-proof offices, and other necessary public buildings for the use of the county, shall be provided by the city of Boston, and said city shall pay all county charges except as hereinafter provided.

Boston to provide county buildings and pay county charges.

SECT. 7. No part of any expense incurred by the laying out, widening, alteration, discontinuance, building, or repair of a highway,

Expenses of certain highways, etc., in

county of
Suffolk.

bridge, or other way of travel in the towns of Revere and Winthrop, shall be assessed upon the county of Suffolk, the city of Boston, or the city of Chelsea, and no part of the expense incurred by the laying out, widening, alteration, discontinuance, building, or repair of a highway, bridge (except Chelsea bridge), or other way of travel in the city of Chelsea, shall be assessed upon the county of Suffolk or the city of Boston.

Maintenance of
Chelsea bridge.

SECT. 8. The city of Chelsea shall maintain and repair that portion of Chelsea bridge over Mystic river which lies north-easterly of the north-easterly draw therein; and the city of Boston shall maintain and repair that portion of said bridge which lies south-westerly of said draw; and said draw, together with the draw-piers, shall be maintained and repaired equally by said cities. Said cities shall be respectively liable for damages resulting from defects in the portions of said bridge which they are severally required to maintain and repair.

Service of
criminal process
in the town of
Hull.

SECT. 12. [This section gives to the courts in the county of Suffolk concurrent jurisdiction with the courts of the several other counties in which parts of the territory therein described are situated, over crimes, offences, and misdemeanors committed in said territory.]

In all cases in which the courts in the county of Suffolk have jurisdiction under this section in the town of Hull, any officer qualified to serve criminal process in the city of Boston may serve such process in said town.

Aldermen to
have powers of
county commis-
sioners.

SECT. 30. In the county of Suffolk the aldermen of the city of Boston shall, except when other provision is made, have like powers and perform like duties within said city as are exercised and performed by the county commissioners of other counties.

CHAPTER 23.

City treasurer
to be treasurer
of Suffolk
county.

SECTION 3. In the county of Suffolk the treasurer of the city of Boston shall be the county treasurer.

City auditor to
be auditor of
Suffolk county.

SECT. 34. The auditor of accounts of the city of Boston shall be the auditor of the county of Suffolk; and all bills for salaries, expenses, and disbursements for said county shall be examined, audited, and allowed by him prior to the payment thereof.

His compensa-
tion.

SECT. 35. There shall be paid to said county auditor by the county of Suffolk a sum not exceeding eight hundred dollars a year, and at the same rate for any part of a year, the same to be in full for all services rendered by him and for all clerical assistance.

CHAPTER 24.

County commis-
sioners may
cause classified
indexes to be
made.

SECTION 25. The county commissioners in each county except Suffolk shall within the first six months of each year, or within such further time during the year as they may think proper, cause to be made at the expense of their several counties, by competent persons employed by them, copies of the indexes to the instruments recorded in the registries of deeds during the preceding year, in which copies the grantors and grantees shall respectively be assorted into distinct lists by their respective surnames in alphabetical order, and arranged under such surnames in the order in which the deeds and other conveyances to which they refer were left for record. They may also

cause the Christian names of the grantors and grantees, as well as their surnames, to be arranged in alphabetical order in such lists, when in their opinion reference to the records will be facilitated thereby. Such copies shall in other respects be in the form required for the indexes to the records.

SECT. 26. When the commissioners deem it expedient, they may cause copies of the indexes or new indexes to the records existing in the registries of deeds in their respective counties, or of any part thereof, to be made by some competent person at the charge of their respective counties, upon such plan and in such manner as will in their judgment best facilitate reference to the records; and they may cause such copies of indexes or new indexes to be printed at the charge of their respective counties, and to be sold at a price not less than the cost of printing, paper, and binding.

New indexes may be made or indexes printed.

SECT. 27. In the county of Suffolk the powers and duties exercised in other counties by the county commissioners according to the two preceding sections shall be exercised by a board of three index commissioners, one of whom shall annually be appointed by the justices of the superior court, or by a majority thereof, during the month of March, to hold office for the term of three years, beginning with the first day of April following. The members of said board shall serve without pay, and in the performance of its duties said board shall not expend an amount in excess of such sum as may be authorized by the board of aldermen of the city of Boston. Any of said commissioners may be removed by the justices aforesaid for good cause shown, in the same manner as is provided for the removal of a register of deeds; and any vacancy in said board shall be filled by appointment by the justices aforesaid for the unexpired term.

Index commissioners in Suffolk county and their powers.

Shall not expend in excess of sum authorized by board of aldermen.

CHAPTER 26.

SECTION 24. Every medical examiner shall return an account of the expenses of each view or autopsy, including his fees . . . in the county of Suffolk to the auditor of the city of Boston, and shall annex to his return the written authority under which the autopsy was made. Such . . . auditor shall audit such accounts, and certify to the treasurer of the commonwealth or to the treasurer of the county, as the case may be, what items in such account are just and reasonable, and such items shall be paid by said treasurer to the person entitled to receive the same.

Medical examiner to return account of expenses and fees to city auditor.

CHAPTER 28.

SECTION 9. Constables' bonds in the city of Boston shall run to the city treasurer, and the sureties therein shall be to his satisfaction; and no constable in said city shall serve any civil process until he has given and filed such bond in a sum not less than three thousand dollars with the approval of the mayor and aldermen indorsed therein.

Constables of Boston not to serve any civil process before giving bonds.
6 Allen 409.
7 Allen 387.
103 Mass. 280.
104 Mass. 376.

SECT. 27. In all cities except Boston the mayor, and in Boston the board of police commissioners, shall annually appoint the keeper of the lock-up as required by section thirty-three of chapter twenty-seven of selectmen of towns, and for neglect of three months to appoint such keeper shall forfeit ten dollars for each month of such neglect.

Keeper of lock-up in Boston, how appointed.
Penalty.

CHAPTER 31

SECTIONS 9, 10, 11, 12. [These sections, relating to the taking of the census in the city of Boston, were repealed by St. 1884, c. 181, § 18.]

CHAPTER 49.

Powers of street commissioners of Boston.
1870, 337.
1878, 75.
102 Mass. 22.
106 Mass. 97.

SECTION 84. The street commissioners of the city of Boston shall, within said city, have similar powers and perform like duties as are exercised and performed by the commissioners of counties in respect to the laying out, altering, locating anew, and discontinuing of ways, and to the ordering of specific repairs thereon; and shall assess damages therefor, and award indemnity for damages sustained by reason of such laying out, alteration, locating anew, discontinuance, or order for specific repairs, in like cases and in the same manner as county commissioners are required to perform similar duties.

Applications for laying out, etc., ways, how made.
117 Mass. 181.
1878, 75, § 1.

SECT. 85. Applications for laying out, altering, locating anew, or discontinuing a way in said city, may be made, and notice given, and proceedings had thereon, in such manner and under such regulations as may be prescribed by the ordinances of said city.

Parties may apply for jury to superior court.

View to be granted.
1878, 75, § 2.
20 Pick. 201.
12 Gray, 209.
14 Gray, 214.
3 Allen, 538.
99 Mass. 236.
106 Mass. 553.

SECT. 86. A party aggrieved by the doings of the street commissioners in the estimation of his damages in any case mentioned in the two preceding sections may apply for a jury by petition to the superior court, at any term thereof holden within one year after the passage of the order or proceeding upon which the application is founded, or within one year after the final determination of any suit wherein the legal effect of the proceedings of the street commissioners is drawn in question; and thereupon said court shall, after due notice to the city, order a trial by jury to be had at the bar of the court in the same manner in which other civil causes are thus tried by the jury; and if either party request it, the jury shall view the place in question.

CHAPTER 50.

City to pay not less than one-quarter of expense of sewers.

SECTION 11. . . . In the city of Boston, not less than one-quarter part of such expense [of constructing, maintaining, and repairing main drains or common sewers] shall be paid by the city, and shall not be charged upon those using the main drains or common sewers.

CHAPTER 52

Grade damages in Boston may be ascertained by committee to be appointed by superior court.

SECTION 16. [This section provides that an owner of land adjoining a highway or townway, who sustains damage in his property by reason of any raising, lowering, or other act done for the purpose of repairing such way, may, by agreement with the adverse party, have his damages ascertained by a committee, to be appointed, in the city of Boston, by the superior court.]

CHAPTER 69.

Penalty for boarding without leave.

SECTION 5. Any person, except a pilot or public officer, who boards or attempts to board a vessel arriving in Boston harbor

. . . before such vessel has been made fast to the wharf, without obtaining leave from the master or person having charge of such vessel, or leave in writing from its owners or agent, shall forfeit a sum not exceeding fifty dollars for each offence.

vessels arriving
in Boston
harbor.

SECT. 6. Whoever, without such leave and without authority of law, boards a vessel in said harbor after having been ordered not to do so by a person having charge of such vessel at the time, and whoever, having boarded such vessel, refuses or neglects to leave it when ordered so to do by the person having charge of it, shall forfeit a sum not exceeding fifty dollars.

Penalty for
boarding with-
out leave, or
refusing to leave
such vessel.

SECT. 10. When any of the offences mentioned in the five preceding sections (§§ 5-9) is committed in Boston or Boston harbor, the penalty may be recovered by complaint in the municipal court of the city of Boston. . . . Whoever commits any such offence may be arrested without warrant by any officer qualified to serve criminal process in the city where the offence may be tried, and he shall be forthwith brought before the court.

Penalties, how
recovered.

SECT. 11. For the purposes of the six preceding sections, the outer limits of Boston harbor, for vessels bound thereto, shall be a line drawn from Harding's Rock to the Outer Graves, and from thence to Nahant Head, and said harbor shall include the shores of Chelsea.

Harbor limits.

CHAPTER 70.

SECTION 2. There shall be two commissioners of pilots for the harbor of Boston, appointed by the governor with the advice and consent of the council, who shall hold office for the term of three years unless sooner removed by the governor and council. The persons so appointed shall have experience in maritime and nautical affairs, and shall first be recommended by the trustees of the Boston Marine Society, but no such commissioner shall at the same time be one of said trustees. If the said trustees refuse, decline, or are unable to make the recommendation above provided for, the governor and council shall appoint the said commissioners without such recommendation.

Commissioners
of pilots for
harbor of Bos-
ton to be ap-
pointed.

SECT. 3. Said commissioners shall grant commissions for pilots, for the harbor of Boston to such persons as they deem competent for the purpose, and who have been approved by the trustees of the Boston Marine Society. They may, upon satisfactory evidence of misconduct, carelessness, or neglect of duty, suspend, until the meeting of the trustees then next ensuing, any such pilot; and if the trustees at such meeting decide that the commission of such pilot ought to be revoked, the commissioners may revoke the same, or may at their discretion continue the suspension of such pilot until the next stated meeting of the trustees, and no longer, for the same offence. They shall see that the laws and regulations for pilotage within the harbor of Boston are duly observed and executed, shall receive and hear complaints by and against pilots for the harbor of Boston, and shall examine into and decide the same.

Their powers
and duties.
104 Mass. 498.

SECT. 4. Said commissioners shall appoint a secretary, who shall keep an office and be in attendance thereat during the day to receive all complaints by and against pilots for the harbor of Boston, and all notifications to the same, and who shall keep a fair record of the doings of said office, to be open at all times for examination.

Appointment of
a secretary and
his duties.

SECT. 5. Once in every three months each pilot for the harbor of Boston shall render to the said commissioners an account of all vessels piloted by him, and of all moneys received for pilotage

Accounts to be
rendered by
pilots for
Boston.

by him or by any person for him, and he shall pay to said commissioners four per cent. on the amount thereof; and if a pilot makes a false return of moneys received, he shall pay a sum not exceeding fifty dollars.

Pay of commissioners, etc.

SECT. 6. Out of the sums so paid to the commissioners, they shall receive such compensation as the trustees of the Boston Marine Society may fix, together with such allowances for office-rent, clerk-hire, and other incidental expenses, as the said trustees may think suitable, and the surplus, if any, shall be paid into the treasury of the Boston Marine Society.

Limits of harbor of Boston.

SECT. 7. The harbor of Boston, for the purposes of this chapter, shall be held to include all places or landings accessible to vessels from sea and included within the limits of Nahant Rock on the north and Point Alderton on the south.

Pilots to give bonds.

SECT. 17. No person shall receive a commission or exercise the office of pilot until he has given to the treasurer of the commonwealth a bond with two sureties in the penal sum of one thousand dollars for the faithful performance of the duties of his office and for the payment of all damages that may accrue from his negligence, unskilfulness, or unfaithfulness. The sureties on the bonds of pilots for the harbor of Boston shall be satisfactory to the commissioners of pilots for said harbor.

Pilots to give notice and furnish new bond upon death or insolvency of surety.

SECT. 19. In case of the decease or insolvency of a surety upon the bond of a pilot, such pilot shall give notice of the fact to the commissioners of pilots for the harbor of Boston, if such pilot is a pilot for said harbor, or to the persons or society who recommended his appointment . . . and thereupon a new bond shall be required from such pilot.

Rates of pilotage.

SECT. 34. . . . In the harbor of Boston the rates of pilotage shall be as now established during the whole year.

CHAPTER 87.

Expenses of commitments of lunatics.

SECTION 24. All necessary expenses attending the apprehension, examination, trial, or commitment of an alleged lunatic, shall, where the commitment is to a state lunatic hospital, county receptacle, or the Boston Lunatic Hospital, be allowed and certified by the judge, and presented as often as once a year to the county commissioners, who shall examine and audit the same; and they shall then be paid by the treasurer of the county of which the alleged lunatic is an inhabitant. When application is made for commitment to any other asylum, hospital, or receptacle, the expenses shall be paid by the applicant, or some one in his behalf.

CHAPTER 88.

Vagabonds, etc., may be committed upon complaint of directors of public institutions.

SECTION 5. Upon complaint of one of the overseers of the poor of a city or town, or, in Boston, of the directors of public institutions, police, district, and municipal courts and trial justices may, in their discretion, commit persons convicted before them of any of the offences enumerated in sections twenty-nine and thirty-seven of chapter two hundred and seven to the workhouse, for a term not less than three months nor more than two years.

CHAPTER 100.

SECTION 6. Notice of all applications for licenses [for the sale of intoxicating liquors] shall be published in the following manner, at the expense of the applicant, to be paid in advance: namely, in the city of Boston by the police commissioners in two or more daily newspapers printed therein [and in the Charlestown, East Boston, South Boston, Roxbury, West Roxbury, Dorchester, and Brighton districts, respectively, in said city, in at least one weekly newspaper published in the district where the premises for which the license is asked are located, if there be any so published. St. 1882, c. 222.]

Notice of applications for licenses to be published.

SECT. 28. The powers and duties given to and imposed upon the mayor and aldermen of cities by this chapter, shall be exercised in the city of Boston by the board of police commissioners.

Powers and duties of police commissioners.

SECT. 29. The governor, with the advice and consent of the council, shall annually appoint and commission a competent person as an inspector and assayer of liquors. He shall inspect and analyze all liquors sent to him by the mayor and aldermen of any city or the board of police commissioners of the city of Boston, and return to such commissioners, as soon as may be, a written statement signed by him of the results of such inspection and analysis. Such statement shall be presumptive evidence of the composition and quality of the liquors to which it relates.

Assayer of liquors.

CHAPTER 102.

SECTION 2. All the provisions of this chapter relative to the licensing of innholders and common victuallers by the mayor and aldermen of cities, shall, in Boston, apply to the board of police commissioners; and no such license shall be valid unless signed by a majority of the members of the board.

Licenses of innholders and common victuallers.

SECT. 4. In Boston all such licenses shall expire on the first day of May next after they take effect.

When to expire.

SECT. 27. [In Boston the police commissioners may grant licenses for keeping intelligence offices.]

Police commissioners may grant licenses to keep intelligence offices.

SECT. 28. The mayor and aldermen of any city except Boston, and in Boston the police commissioners, and the selectmen of any town, if by-laws therefor have been adopted in such city or town, may license suitable persons to be dealers in and keepers of shops for the purchase, sale, or barter of junk, old metals, or second-hand articles, in such city or town, subject to the provisions of sections one hundred twenty-four to one hundred twenty-seven inclusive, and may revoke such licenses at pleasure.

Licenses to deal in junk, etc.

SECT. 32. The mayor and aldermen of any city except Boston, and in Boston the police commissioners, and the selectmen of any town, if by-laws therefor have been adopted in such city or town, may license suitable persons to carry on the business of pawnbrokers in such city or town, subject to the provisions of sections one hundred and twenty-four to one hundred and twenty-seven inclusive, and may revoke such licenses at pleasure.

Licenses to pawnbrokers.

SECT. 49. The fire commissioners of the city of Boston or any person by them authorized, may, after notice to the parties interested, examine any steam-engine or steam-boiler therein, whether fixed or portable; and for that purpose may enter any house, shop, or building; and if, upon such examination, it appears probable that the use of such engine or boiler is unsafe, they may issue a temporary order to suspend such use; and if, after giving the parties interested,

Fire commissioners may examine steam-engines and steam-boilers.

so far as known, an opportunity to be heard, they adjudge such engine or boiler unsafe or defective or unfit to be used, they may pass a permanent order prohibiting the use thereof until it is rendered safe. If, after notice to the owner or person having charge thereof, such engine or boiler is used contrary to either of such orders, it shall be deemed a common nuisance, without any other proof than its use.

Steam-engines
may be removed
as nuisances.

SECT. 50. The fire commissioners may abate and remove a steam-engine or steam-boiler erected or used contrary to the provisions of the preceding section in the same manner as board of health may remove nuisances, under sections twenty-one, twenty-two, and twenty-three of chapter eighty.

Fire commis-
sioners in Bos-
ton may exercise
powers, if, etc.
R.O., c. 45, §§ 6,
et seq.

SECT. 67. The powers or any of them conferred on the city council of a city by section sixty [to regulate the keeping, manufacture, sale, or transportation of explosive compounds] may be exercised in the city of Boston, if the city council of said city so determine, by the board of fire commissioners, or any other board to which said city may from time to time by ordinance delegate such powers.

Chief of police
to issue licenses
to keep dogs.

SECT. 84. The chief of police of Boston, and the clerks of other cities and of towns shall issue said licenses [to keep dogs], and receive the money therefor, and pay the same into the treasuries of their respective counties, except in the county of Suffolk, on or before the first day of December of each year, retaining to their own use twenty cents for each license, and shall return therewith a sworn statement of the amount of moneys thus received and paid over by them. They shall also keep a record of all licenses issued by them, with the names of the keepers or owners of dogs licensed, and the names, registered numbers, and descriptions of all such dogs.

Penalty for
keeping un-
licensed dog.
107 Mass. 405.
128 Mass. 421.

SECT. 87. Whoever keeps a dog contrary to the provisions of this chapter shall forfeit fifteen dollars, five dollars of which shall be paid to the complainant, and ten dollars to the treasurer of the county in which the dog is kept; except that in the county of Suffolk the ten dollars shall be paid to the treasurer of the city or town wherein said dog is kept.

Assessors to
make list of
dogs.

SECT. 89. The assessors shall annually take a list of all dogs owned or kept in their respective cities or towns on the first day of May, with the owners' or keepers' names, and return the same in Boston, to the chief of police, on or before the first day of July.

In Suffolk,
moneys from
licenses to be
paid into city
treasury, etc.

SECT. 105. In the county of Suffolk, all moneys received for licenses or recovered as fines or penalties under the provisions of this chapter relating to dogs, shall be paid into the treasury of the city or town in which said licenses are issued or said fines or penalties recovered. All claims for damages done by dogs in Suffolk county shall be determined by appraisers, as specified in section ninety-eight, and when approved by the board of aldermen or selectmen of the city or town where the damage was done, shall be paid in full on the first day of January of each year by the treasurer of such city or town, if the gross amount received by him and not previously paid out under the provisions of this chapter relating to dogs is sufficient therefor; otherwise such amount shall be divided pro rata among such claimants in full discharge of their claims.

Unexpended
moneys, how
appropriated.

SECT. 107. In Suffolk county, moneys so received by the treasurer of a city or town [for licenses, fines, and penalties], and not so paid out shall be expended by the school committee for the support of public schools.

Billiard tables,
etc., to be li-
censed.

SECT. 111. The mayor and aldermen of any city except Boston, and in Boston the police commissioners, may grant a

license to any person to keep a billiard, pool, or sippio table, or a bowling-alley for hire, gain, or reward, upon such terms and conditions as they deem proper, to be used for amusement merely, but not for the purpose of gaming for money or other property, subject to the provisions of sections one hundred and twenty-four to one hundred and twenty-seven inclusive, and may revoke the same at pleasure.

SECT. 124. Licenses granted to keepers of intelligence offices, dealers in junk, old metals, and second-hand articles, pawnbrokers, and keepers of billiard saloons, pool or sippio rooms or tables, and bowling-alleys, shall be signed by the clerk of the city or town in which they are granted, except in Boston, where they shall be signed by a majority of the police commissioners, and every such license shall be recorded by the clerk of the city or town, or in Boston by the clerk of the police commissioners, in a book kept for that purpose, before being delivered to the licensee; such license shall set forth the name of the person licensed, the nature of the business, and the building or place in such city or town in which it is to be carried on, and shall continue in force until the first day of May next ensuing, unless sooner revoked. [The board issuing such a license shall receive for the use of the city or town for each license such sum not less than two dollars, and in the city of Boston for a pawnbroker's license such sum not less than ten dollars, as the board shall deem reasonable. St. 1882, c. 258.]

Certain licenses,
how signed and
what to contain.

1882, 258.

CHAPTER 103.

SECTION 7. The police commissioners of the city of Boston . . . may license any citizen of their respective cities to act as a private detective for the detection, prevention, and punishment of crime, for the term of one year, unless his license is sooner revoked for cause. The fee for such license shall be ten dollars, to be paid into the city treasury, and each person so licensed shall give to the city treasurer a bond with two sureties, approved by the board giving such license, in the sum of three thousand dollars, with condition for the proper discharge of the service which he may perform, by virtue of such license; but nothing herein contained shall be construed to confer on a person so licensed any of the power or authority of constables or police officers.

Private detec-
tives to be li-
censed.

CHAPTER 113.

SECTION 46. Package tickets issued by any street-railway company in the usual form of tickets sold by it, and good for a fare not exceeding six cents upon its route from a point in the city of Boston to another point in said city, in a car run therein by said company, shall be received by any other street-railway company for a passage between any two points in said city in any car wherein a fare not exceeding six cents is receivable; and every such company shall once in each week redeem all such tickets issued by it, and presented by any other such company by paying five cents for each ticket so presented. A company refusing so to receive any such ticket, or so to redeem any such ticket of its own issue, shall forfeit one dollar for each ticket which it so refuses, to be recovered in an action of tort by the person or corporation presenting the same, to his or its own use.

Tickets for six
cent fare in Bos-
ton to be re-
ceived by other
roads, etc., to be
redeemed, etc.

Penalty.

Commutation
checks.
109 Mass. 506.
117 Mass. 544.

SECT. 47. A passenger riding in a street-railway car from a point in the city of Boston to another point therein, upon paying a sum in addition to the established fare for such passage, and in the whole not more than eight cents, shall receive a check which shall entitle him to a passage on the same day only in any car run by any other company between any two points in said city, but not to a passage over the same route on which the check was issued, or a route parallel thereto and between and including two common points; and no company shall take more than eight cents for both of the passages aforesaid, including the check; but not including the toll upon any bridge or ferry. A passenger riding in a street-railway car from a point within or without said city to another point therein, if the established fare between such points is not more than six cents, upon paying a sum in addition to such fare, and in the whole not more than nine cents, shall receive a check which shall entitle him to a passage on the same day only in any car run by any other company between any two points in said city or from any point therein to any point without said city between which the established fare is not more than six cents, but not to a passage over the same route on which the check was issued, or a route parallel thereto and between and including two common points; but a company whose cars cross a ferry or toll-bridge within the limits aforesaid, may collect of passengers crossing such ferry or toll-bridge upon commutation checks one cent additional for a ferry or bridge toll; and no corporation or commissioner of a toll-bridge or ferry shall exact of a company, whose cars cross a ferry or toll-bridge less than one mile in length, any other toll than one cent for each passenger carried across in its cars. Every company issuing such checks shall redeem the same once in each week, paying therefor, to the companies presenting them, one-half of the amount received as fare of the passengers to whom they were sold. A person who transfers, with or without consideration, any check which he receives in accordance with the provisions of this section, shall forfeit a sum not exceeding twenty-five dollars, to be recovered by complaint to the use of the company. A company violating any provision of this section shall be punished by fine of not less than five nor more than twenty-five dollars.

CHAPTER 154.

Municipal
courts of Boston.
Judicial dis-
tricts.

SECTION 42. The judicial districts of the several municipal courts of the city of Boston shall continue to comprise the following wards thereof, respectively:—

The municipal court.

Of the city of Boston; wards six, seven, eight, nine, ten, eleven, twelve, sixteen, seventeen, and eighteen:

Of the East Boston district; wards one and two:

Of the Charlestown district; wards three, four, and five:

Of the South Boston district; wards thirteen, fourteen, and fifteen:

Of the Roxbury district; wards nineteen, twenty, twenty-one, and twenty-two:

Of the Brighton district; ward twenty-five:

Of the West Roxbury district; ward twenty-three:

Of the Dorchester district; ward twenty-four.

Provisions
relating to
police and dis-
trict courts to
apply.

SECT. 43. All the provisions of this chapter relating to police and district courts, their justices and clerks, and the rights, duties, and liabilities of parties to proceedings therein, shall, as far as applicable,

apply to municipal courts, their justices and clerks, and the parties to proceedings therein, except as hereinafter otherwise provided. 103 Mass. 450.
117 Mass. 280.

SECT. 44. The municipal courts within the city of Boston shall have concurrent jurisdiction over all waters, islands, and places not included in the district of any one of said courts or of the police court of Chelsea, and within the jurisdiction of the superior court for the county of Suffolk, except as provided in the following section. Concurrent jurisdiction.

SECT. 45. The municipal courts of the city of Boston, of the East Boston district, of the Charlestown district, and of the South Boston district, shall have and exercise concurrently with each other the same criminal jurisdiction that said courts have within their respective districts over all islands and waters within the criminal jurisdiction of the superior court for the county of Suffolk; but the word "islands" herein shall not be taken to include East Boston. Certain municipal courts to have concurrent jurisdiction in criminal cases over certain islands, etc.

SECT. 46. Each of the municipal courts within the city of Boston shall have exclusive original jurisdiction of all actions under chapter one hundred and seventy-five when the premises in controversy are situated within its district. Exclusive jurisdiction of forcible entry and detainer.

SECT. 47. The writs and other processes of each of said courts may run into any county for the purpose of attaching property, of service on a defendant or trustee, of summoning witnesses, of levying execution, and for all other purposes incident to its jurisdiction, and may be served and executed by the sheriff of any county or his deputies, or by any constable qualified to serve civil process. If a defendant, except in trustee process, is summoned out of the county in which he resides, or has his usual place of business, the writ shall be served on such party at least fourteen days before the return day. Writs and processes may run into any county.

SECT. 48. Except as provided in section fifty-nine, transitory actions brought in said courts shall be brought in the district where some one of the parties lives or has his usual place of business; except, that if suit is begun by trustee process, and all the persons named in the writ as trustees dwell or have usual places of business in one district, the writ shall be returnable in such district, otherwise it may be returnable in any district in which either of them dwells or has his usual place of business, without regard to the domicile of the other parties. Transitory actions to be brought in district where one party lives or has place of business, except, etc.

SECT. 49. The two preceding sections shall not be construed to give said courts jurisdiction of transitory actions, unless some one of the defendants, or, in trustee process, some one of the trustees, lives or has his usual place of business in the county of Suffolk. Courts not to have jurisdiction unless one of the defendants lives in Suffolk.

SECT. 50. The original criminal jurisdiction of each of said courts within its district, in addition to the jurisdiction otherwise conferred, shall include all crimes under the degree of felony, except conspiracies and libels and cases where a prosecution by indictment or information is required by law, and shall be exclusive of the jurisdiction of any other municipal or police court or trial justice. Each of said courts may impose the same penalties that may be imposed by the superior court in like cases. But an offence committed on the boundary line of two of such districts, or within fifty rods of such line, may be alleged to have been committed, and may be prosecuted and punished, in either district. To have original criminal jurisdiction of all crimes under degree of felony, except, etc.

SECT. 51. In all cases in which said municipal courts are authorized to sentence to imprisonment in the house of correction or county jail, or to commit thereto for non-payment of fine or costs, said courts may instead, at their discretion, sentence to imprisonment in the house of industry of the city of Boston, or commit thereto. Offences on boundary line.
121 Mass. 375.

SECT. 52. In said municipal courts, instead of entering into a recognizance, the party appealing in civil proceedings shall file a bond Courts may sentence to house of industry.

In appeals, bond to be filed.

with surety or sureties to the adverse party, within the same time, upon the same conditions and with the same powers in the judge and clerk as are provided in respect to recognizances in police and district courts. The attorney of record of the appellant may execute such bond in his behalf.

Account to be rendered to collector of city of Boston.

SECT. 53. The clerks of the municipal courts within the city of Boston, and the justices of said courts where there are no clerks, and the justice of the police court of Chelsea, shall account and pay to the collector of the city of Boston in the same manner as the clerks and justices of other courts are required to account and pay to their respective county treasurers.

Constables.

SECT. 54. There shall be one constable in each of the municipal courts of the East Boston, Dorchester, West Roxbury, and Brighton districts, and two constables in each of the municipal courts of the South Boston, Charlestown, and Roxbury districts, to be appointed by the standing justices of said courts.

THE MUNICIPAL COURT OF THE CITY OF BOSTON.

One chief-justice and two associates.

SECT. 55. The justices of the municipal court of the city of Boston shall continue to hold their offices according to the tenor of their commissions, and as vacancies occur others shall be appointed in the manner provided by the constitution, so that there shall be one chief-justice and two associate justices.

Any justice may receive complaints, etc. Expenses to be audited, how.

SECT. 56. When the court is not in session, any justice thereof may receive complaints and issue warrants; and the justices of said court shall meet quarterly, and as much oftener as may be necessary, to allow bills of costs, accounts, charges, and expenses arising in said court, and shall certify to the public officer by whom the same are payable such as are allowed by them.

Special justice may be appointed; compensation, etc.

SECT. 57. There shall be one special justice of said court, who may, at the request of the justice whose duty it may be in rotation to hold a term of said court, or, in case of the sickness or absence of a justice, or a vacancy, shall, at the request of the other justices of said court, or either of them, hold any term or terms thereof, and during the continuance of such request, or during the time of such sickness, absence, or vacancy, shall have and exercise all powers and duties of the justices of said court. His compensation shall not exceed ten dollars for each day's service; and his compensation for any excess over thirty days' service in any one year shall be deducted by the city treasurer from the salary of the justice for whom said special justice has been called upon to sit, or whom he has been called upon to assist.

Clerks and assistant clerks. Extra clerical assistance.

SECT. 58. There shall be a clerk and four assistant clerks of said court for criminal business, and a clerk and one assistant clerk of said court for civil business. The clerks shall be appointed by the governor by and with the consent of the council for the term of five years. The assistant clerks shall be appointed by the clerks respectively, subject to the approval of the justices or a majority of them, and the clerks shall be responsible for the doings of their assistants and may remove them at pleasure.

Compensation.

The clerk of the court for criminal business shall be paid by the county a sum not exceeding sixteen hundred dollars a year, and the clerk of the court for civil business shall in like manner be paid a sum not exceeding eleven hundred dollars a year, to be expended by them respectively for extra clerical assistance.

Civil jurisdiction.

SECT. 59. Said court shall have original concurrent jurisdiction with the superior court of all civil actions and proceedings (except when the title to real estate is put in issue) wherein the sum de-

manded or the value of the property alleged to be detained exceeds one hundred and does not exceed one thousand dollars, and one or more of the defendants, or, in trustee process, one or more of the trustees, live or have their usual place of business in the city of Boston.

SECT. 60. The civil jurisdiction of said court, when the plaintiff resides or has his usual place of business within the county of Suffolk, or resides out of the commonwealth, shall include personal actions wherein the defendant is not an inhabitant of the state, if personal service of the writ, or an effectual attachment of property, is made within the county of Suffolk.

Civil jurisdiction when defendant lives out of the State.

SECT. 61. When an appeal is taken to the superior court in a criminal proceeding, the clerk shall transmit a copy of the judgment, the original recognizances, a list of the witnesses, and a copy of the bill of costs, for which no charge shall be made; and no other papers shall be required to be transmitted.

What papers to be transmitted in appeals in criminal cases.

SECT. 62. The court shall be held for criminal business daily, except on Sundays and legal holidays, at nine o'clock in the forenoon, and, if it appears expedient to any of the justices, at three o'clock in the afternoon, or some hour thereafter; and it shall be held weekly for civil business. Each term shall commence on Saturday, and actions therein may be continued to any future day fixed for the sitting of the court; and different justices may hold different sessions at the same time for the trial of civil or criminal cases.

Court, terms of, when to be held.

SECT. 63. The justices shall designate six constables of the city of Boston to attend the sessions of said court for criminal business, and two constables of said city to attend its sessions for civil business, and to serve such warrants, precepts, orders, and processes issuing from said court as shall be committed to them by said justices or either of them.

Constables.

[Sects. 64, 65, 66, and 67, relate to compensation of justices, clerks, and constables.]

CHAPTER 160.

SECTION 13. . . . No juror shall be disqualified by reason of being an inhabitant of the city of Boston.

Jurors in Boston.

CHAPTER 161.

SECTION 7. Actions against a city, town, or person, to recover for injury or damages received through a defect or want of repair or of sufficient railing in or upon a highway, townway, causeway, or bridge, shall be brought in the county wherein the said city or town is situated or said person resides; except that such actions against the city of Boston may be brought in the county of Middlesex, or in the county of Norfolk, or in the county in which the party bringing such action resides.

Actions for defective highways, etc., where to be brought.

SECT. 9. Actions, suits, and prosecutions by and against the city of Boston (except actions mentioned in section seven), and suits by the collector of said city under sections twenty and twenty-one of chapter twelve, may be brought in either of the counties of Suffolk, Essex, Middlesex, or Norfolk, in the county where the plaintiff lives; and, if brought by the city or by its collector in the county of Suffolk, may be removed to one of the other of said counties, as provided in the following section.

Actions by and against city of Boston.

—if brought in
county of Suff.
folk, may be re-
moved to an-
other county.

SECT. 10. The defendant or tenant may, at the term at which his appearance is entered, file a motion in writing for the removal of the action, and the court shall thereupon order it to be removed to the proper court in such one of the other of said counties as the attorney of the city of Boston elects. Said attorney shall enter the same accordingly in the court so designated, at the then next term, and file therein certified copies of the writ or other process and of the order of removal; and the proceedings shall thereafter be conducted in like manner as if the suit had been originally commenced in that county.

CHAPTER 212.

Probation offi-
cer in Boston.
His duties.

SECTION 78. The mayor and aldermen of the city of Boston shall appoint annually in the month of May, and when a vacancy occurs, a probation officer for the county of Suffolk; and may remove him at any time. He shall receive such compensation, to be paid from the city treasury, as the city council may determine. He shall attend the sessions of the courts held within said county for criminal business, investigate the cases of persons accused or convicted of crimes and misdemeanors, and recommend to the courts the placing on probation of such persons as may reasonably be expected to reform without punishment. He shall have a place in the office of the superintendent of police, and be under his general control. When he deems it advisable for any person placed on probation to be sent out of the state at the expense of the city, the city council may make the necessary appropriation for the purpose, to be expended by him under the direction of the superintendent of police, and he shall render an account of such expenditures, with the items, quarterly to said superintendent. He shall also, as far as practicable, visit the offenders placed on probation by the court at his suggestion, and render such assistance and encouragement as will tend to prevent their again offending. Any person placed upon probation upon his recommendation may be re-arrested by him upon approval of the superintendent of police, without further warrant, and again brought before the court; and the court may thereupon proceed to sentence, or may make any other lawful disposition of the case.

CHAPTER 220.

Convicts may be
employed to
labor on public
lands, etc.

SECTION 4. The commissioners of the several counties, and the board of directors for public institutions in the city of Boston, may, with the assent of the master or keeper of a jail, employ any person confined therein, under sentence, to labor upon the public lands and buildings belonging to the county.

House of correc-
tion to be pro-
vided.

SECT. 7. [A fit and convenient house or houses of correction shall be provided in Suffolk county by the aldermen of the city of Boston, at the charge of said city.]

Board of direc-
tors for public
institutions to
provide ma-
terials, etc., and
make rules.

SECT. 11. The board of directors for public institutions in the city of Boston shall cause to be provided, at the expense of said city, suitable materials and implements sufficient to keep at work all the persons committed to the house of correction, and may from time to time establish needful rules, not inconsistent with the rules and regu-

lations of the commissioners of prisons, for employing, reforming, governing, and punishing the persons so committed, for procuring and preserving such materials and implements, and for keeping and settling all accounts of the cost and expenses of procuring the same, and of all labor performed by each of the persons so committed.

SECT. 12. They shall see that the rules established for the management of the house of correction and the government of the persons confined therein are strictly observed, examine all accounts of the master relating to the earnings of the prisoners and all expenses of the institution, and keep a fairly written register of their official proceedings.

To enforce rules, inspect accounts, etc.

SECT. 13. They may make contracts for work to be done in the house with any person disposed to supply materials to be there wrought, and in such case may stipulate that the contractor shall furnish some person, to be approved by them, to oversee the labor of the convicts and instruct them in business or trades, conforming to all rules of the prison, and not interfering with the discipline thereof.

May make contracts for work to be done in house, etc.

SECT. 14. They may make contracts for letting out to hire, during the day time, any of the persons there confined, to employers who live so near to the house of correction that the directors or the master of the house can have the general inspection of the conduct of the persons so let out, and of the treatment they receive.

For letting out to hire, etc.

SECT. 15. They may, with the assent of the master or keeper of a house of correction, employ any of the prisoners to labor upon the public lands and buildings belonging to the county.

Convicts may be employed on public lands, etc.

SECT. 18. The county commissioners of the several counties may, in their discretion, establish therein, at the expense of the county, houses of reformation, to which offenders under the age of sixteen years may be sentenced in all cases punishable with imprisonment, or for non-payment of fine, or fine and costs.

Houses of reformation for offenders under sixteen years of age.

SECT. 19. Any city or town in such county may assign such house of reformation as the institution provided for persons convicted of being habitual truants, or of the offences described in section twelve of chapter forty-eight, and in such case shall pay such sum for the support of those committed thereto as the county commissioners shall determine.

May be assigned as place for habitual truants.

SECT. 20. The said commissioners shall make all suitable regulations for the government and control of such houses of reformation, and the appointment of teachers and officers thereof, and shall have power at any time to discharge any person sentenced to such institution; and in the county of Suffolk the board of directors for public institutions shall have like authority to discharge persons from the house of employment and reformation for juvenile offenders established in the city of Boston.

How to be governed.

Discharges.

SECT. 21. Said board of directors may remit the punishment of, and place upon probation, any person now or hereafter committed to said house of employment and reformation, upon such conditions, with such restrictions, and under such limitations, as they deem proper.

Juvenile offenders in Boston may have punishment remitted upon conditions, etc.

SECT. 22. If any person, whose punishment is remitted and who is placed upon probation as provided by the preceding section, in the opinion of said board of directors, violates any condition, restriction, or limitation of such remission or probation, said board may at any time, without further warrant or authority, cause him to be arrested and remanded and confined for the unexpired term of his sentence.

May be arrested and remanded if conditions are violated.

SECT. 23. . . . In the county of Suffolk the board of directors for public institutions shall appoint a suitable person to be master of the house of correction, to hold his office during their pleasure.

Master of house of correction in Suffolk.

Compensation
of sheriff.

SECT. 25. For the safe-keeping of the prisoners committed to his charge, the sheriff shall have such compensation from the county, not less than twenty dollars a year, as . . . in the county of Suffolk, the mayor and aldermen order.

Jailer, etc., to
keep calendar of
prisoners.

SECT. 28. [Provides for the keeping by the jailer or the master of each jail or house of correction, of an exact calendar of prisoners, their times of commitment, sentence, etc., under a penalty of one hundred dollars to be recovered by the directors for public institutions in an action of tort, in the name of the city of Boston, and expended by them for the relief of discharged prisoners.]

Penalty.

Order for soli-
tary con-
finement, not
more than ten
days.

SECT. 42. If a person, confined in a jail or house of correction upon a conviction or charge of an offence against the commonwealth, is refractory or disorderly, or wilfully or wantonly destroys or injures any article of furniture or other property, or any part of such prison, the sheriff, county commissioners, or board of directors for public institutions, respectively, after due inquiry, may cause him to be kept in solitary confinement, not more than ten days for one offence. . . .

Instruction in
reading and
writing.

SECT. 46. The aldermen of the city of Boston, with the sheriff of the county, may, at the expense of their city, furnish suitable instruction in reading and writing for one hour each evening, except Sundays, to such prisoners as may be benefited thereby, and wish to receive the same.

Officer using
intoxicating
liquor to be
removed.

SECT. 49. . . . The board of directors for public institutions in the city of Boston shall forthwith remove any officer by them appointed to any position of trust or authority in a jail or house of correction who is known to use intoxicating liquor as a beverage.

Expense of
supporting
convicts, how
paid.

SECT. 54. All charges and expenses of safe-keeping, maintaining, and employing convicts sentenced to imprisonment in the jail or house of correction, of the safe-keeping of persons charged with offences, and committed for trial or sentence, and of prisoners committed on mesne process or execution, so long as the fees for their board are paid by the defendant or debtor, plaintiff or creditor, shall be paid from the county treasury, the accounts of the keeper or master being first settled and allowed by the commissioners, or in the county of Suffolk by the aldermen of the city of Boston; and no allowance therefor shall be made by the commonwealth.

Advancement
of money for
tools and ma-
terials, etc.

SECT. 55. The county commissioners and the aldermen of the city of Boston may order such sums of money as may from time to time be necessary, to be advanced out of the treasuries of their counties or city to the master of the house of correction or keeper of the jail, for the purpose of providing such tools, materials, and other things, as may be required for the employment, restraint, and safe-keeping of the convicts; and the master or keeper shall appropriate the same under the direction of the officers ordering the advancement, and account to them for the expenditure thereof.

Master, etc., to
keep account
of earnings, etc.

SECT. 56. Each master or keeper shall cause the articles manufactured by the prisoners in his custody, or the produce of their labor, to be disposed of to the best advantage, and, under the direction of such commissioners or aldermen, shall cause accounts to be kept of the proceeds thereof, and shall present such accounts to them for payment semi-annually, and as much oftener as they deem it necessary. He shall pay into the treasury of the county or city, at such time as said officers direct, the amount of sales and other proceeds of the labor and earnings of the prisoners in his custody, or the balance thereof.

— to supply fuel,
etc. Allowance
therefor.

SECT. 57. The master or keeper shall furnish, at the expense of the county, necessary fuel, bedding, and clothing, for all prisoners in his custody upon charge or conviction of any offence against the

commonwealth, and shall present to the county commissioners, or, in the county of Suffolk, to the aldermen of the city of Boston, a full account of his charges so incurred, and also for necessary furniture for the prison; and the commissioners and aldermen shall make a reasonable allowance therefor, which shall be paid from the county treasury.

SECT. 58. When the commissioners or the aldermen of the city of Boston direct specific rations or articles of food, soap, fuel, or other necessities to be furnished to the prisoners, the keeper or master shall conform to such direction; and if he refuses or neglects to furnish the same he shall be subject for a first and second offence to the penalties prescribed by section forty-eight for the offences therein mentioned.

— to obey orders for furnishing specific rations.
Penalty.

SECT. 59. The board of directors for public institutions in the city of Boston shall, from time to time, determine what sum the master of the house of correction for the county of Suffolk shall receive for the board of persons committed to his custody, and the master shall, in addition to such board, receive such further compensation for his services as the city council of the city of Boston deems just and reasonable.

Compensation of master of house of correction.

SECT. 60. In the county of Suffolk the board of directors for public institutions, and in other counties the county commissioners, shall, twice in each year, and oftener, if necessary, examine and audit the accounts for the care and expense of supporting and employing the persons committed to the houses of correction in their county, and certify what sum is due for supporting and employing each person, after deducting the net profit of his labor. If any such person refuses or neglects, for fourteen days after demand, in writing, by the master or keeper, to pay the sum so certified to be due, the commissioners or directors may commence an action of contract in the name of their county, or, in the county of Suffolk, in the name of the city of Boston, and recover against such person the sum found to be due; but the defendant may prove on the trial that the whole sum allowed and certified by the directors or county commissioners was not due, and may, as in other cases, tender, bring into court, or offer judgment for, such sum as he admits to be due.

Auditing accounts for support of convicts etc.

SECT. 61. When they certify that a sum is due for supporting and employing any person who has not sufficient estate to pay the same, such sum may be recovered, by the city of Boston, of any parent, master or kindred by law liable to maintain him. If he is committed for any offence mentioned in section twenty-three of chapter two hundred and three, or section twenty-nine of chapter two hundred and seven, such sum, to an amount not exceeding one dollar a week, may be recovered of the city or town where he has his lawful settlement; and any city or town paying such sum may recover the same of any parent, master, or kindred by law liable to maintain him.

Support of poor convicts, how to be recovered of kindred, town, etc.

SECT. 62. Upon refusal or neglect to make payment for thirty days after the same is demanded in writing of the parent, master, or kindred, or of any member of the city council of the city, or any overseer of the poor of the town, respectively liable by law therefor, the city of Boston, at any time within two years after the account has been so certified, and not afterwards, may commence and maintain an action for the same against the party so liable, in the form of action and subject to the defence prescribed and allowed in section sixty.

Action therefor.

SECT. 65. [Each jailer and master shall keep in a prison-book an account of the value of the labor of prisoners, officers' salaries, articles furnished for support of prisoners, etc., and exhibit the same

Jailer to keep account, etc.

to the board of directors when his accounts are presented for examination, and at other times when demanded, under a penalty of one hundred dollars, to be recovered by the directors in an action of tort in the name of the city of Boston, and expended for the relief of discharged convicts.]

Certain reformed convicts may be discharged upon condition. 1884, 152.

SECT. 66. When it appears to the county commissioners, or to the directors of a house of correction, house of industry, or workhouse, that a person there confined on conviction, before a trial justice, or police, district, or municipal court, of either of the offences mentioned in section twenty-nine of chapter two hundred and seven, has reformed and is willing and desirous to return to an orderly course of life, they may, by a written order, discharge him from confinement, upon condition that if he shall at any time thereafter be convicted of any crime he shall serve the remainder of his original sentence in addition to the sentence then imposed. A person committed by the superior court for either of said offences may be discharged by said court upon recommendation of the commissioners or directors, upon the same condition.

Night-walkers, etc., committed for third offence, may be bound out or discharged in certain cases.

SECT. 67. After six months from the time of sentence, the county commissioners, or, in the city of Boston, the board of directors for public institutions, may discharge any person committed to the house of correction, and the directors of a workhouse or house of industry may discharge any person committed to such institution under section thirty-seven of chapter two hundred and seven, upon being satisfied that the convict has reformed; or may bind out such person, for any term during the period of the sentence, as an apprentice or servant to any inhabitant of this state; and said commissioners and directors, and the master, mistress, apprentice, and servant, shall respectively have all the rights and privileges, and be subject to all the duties, set forth in chapter one hundred and forty-nine, in the same manner as if such binding were made by the overseers of the poor; and the relations between the parties shall not be affected by the age of the party bound. If the master or mistress is discharged from the contract of service or apprenticeship, as provided in said chapter, the person bound shall be returned to the place of confinement, and serve out the original sentence, if any portion thereof is unexpired; but the commissioners or directors shall not be liable to the costs of the process provided in said chapter.

Permits to persons imprisoned for drunkenness. 1884, 152.

SECT. 68. When it appears to . . . the board of directors for public institutions that a person imprisoned for drunkenness in a jail, house of correction, or other place of confinement, . . . has reformed, they may issue to him a permit to be at liberty during the remainder of his term of sentence; and the board that has issued such permit may revoke the same at any time previous to the expiration of the original term of sentence.

Prisoners may be released on probation.

SECT. 69. A probation officer may, with the consent of . . . the board of directors for public institutions, investigate the case of any person imprisoned in a jail, or house of correction, or in the house of industry in the city of Boston, for an offence other than a felony, upon sentence of not more than six months, or upon a longer sentence of which not more than six months remain unexpired, with a view to ascertaining the probability of the reformation of such person if released from imprisonment. If, after such investigation, the probation officer recommends the release of the prisoner, and the court which imposed the sentence, or, in case of the superior court, the district-attorney, certifies a concurrence in such recommendation . . . the said board of directors may, if they deem it expedient, release him upon probation, upon such conditions as they deem best, and may require a bond for the fulfilment of such con-

ditions. The surety upon any such bond may at any time take and surrender his principal, and the . . . said board of directors may at any time order any prisoner released by them upon probation to return to the prison from which he was released. This section shall nor apply to persons held upon sentence of the courts of the United States.

SECT. 70. Upon the request of the board releasing any person under a permit or upon probation, pursuant to the two preceding sections, any court or trial justice having jurisdiction of criminal offences, shall issue a warrant for the arrest of such person, and remand him to the prison or other place of confinement from which he was released, where he shall be detained according to the terms of his original sentence. If the person for whose arrest such warrant is issued is confined in any prison, service of such warrant shall not be made until his release therefrom. In computing the period of confinement of a person returned to prison because of the revocation of his permit, or the violation of the condition of his probation, the time between his release and his return shall not be taken to be any part of his term of sentence.

Prisoners released on probation or permit, how remanded.

CHAPTER 222.

SECTION 16. The justices of police, district, and municipal courts and trial justices may discharge from the jail in their several counties persons confined for the non-payment of fine and costs not exceeding ten dollars, when they are of opinion that such persons are not able to pay the same, or that it is otherwise expedient; and the board of directors of public institutions in the city of Boston may in like manner discharge persons so committed to the house of industry; but no fees shall be allowed to any person for such service.

Poor convicts, how discharged.

SECT. 20. Every officer in charge of a prison or other place of confinement shall keep a record of the conduct of each prisoner in his custody whose term of imprisonment is not less than four months. Every such prisoner whose record of conduct shows that he has faithfully observed all the rules, and has not been subject to punishment, shall be entitled to a deduction from the term of his imprisonment, to be estimated as follows:—upon a sentence of not less than four months and less than one year, one day for each month; upon a sentence of not less than one year and less than three years, three days for each month; upon a sentence of not less than three years and less than five years, four days for each month; upon a sentence of not less than five years and less than ten years, five days for each month; upon a sentence of ten years or more, six days for each month. When a prisoner has two or more sentences, the aggregate of his several sentences shall be the basis upon which the deduction shall be estimated. Each prisoner who is entitled to a deduction from the term of his imprisonment, as aforesaid, shall receive a written permit to be at liberty during the time thus deducted, upon such terms as the board granting the same shall fix. Said permits shall be issued as follows: To prisoners in the house of industry, jail, or house of correction of Suffolk county, by the board of directors for public institutions. . . . The board issuing a permit as aforesaid may at any time revoke the same, and shall revoke it when it comes to their knowledge that the person to whom it was granted has been convicted of any offence punishable by imprisonment.

Record of conduct.
Deduction from sentence.

Revocation of permits.

If permit is re-
voked, convict
may be re-
manded.
1884, 182.

SECT. 21. Any court or trial justice having jurisdiction of criminal offences, when notified by the board issuing a permit that the same has been revoked, shall issue a warrant for the arrest of the person holding said permit and shall remand him to the prison or other place of confinement from which he was released, where he shall be detained according to the terms of his original sentence ; and in computing the period of his confinement, the time between his release upon said permit and his return shall not be taken to be any part of the term of the sentence. If the person for whose arrest said warrant is issued is confined in any prison, service of such warrant shall not be made until his release therefrom.

Prisoner who
violates rules
not entitled to
entire deduc-
tion.

SECT. 22. If a prisoner violates any of the rules of his prison or other place of confinement, the board authorized by section twenty to grant permits shall decide what portion of the time, which would otherwise be deducted from the term of his imprisonment, shall be forfeited by such violation.

APPENDIX.

APPENDIX.

1821. — CHAPTER 110.

AN ACT ESTABLISHING THE CITY OF BOSTON.

Be it enacted, etc. :

SECTION 1. That the inhabitants of the town of Boston, for all purposes, for which towns are by law incorporated in this Commonwealth, shall continue to be one body politic, in fact and in name, under the style and denomination of the city of Boston, and as such, shall have, exercise, and enjoy, all the rights, immunities, powers, and privileges, and shall be subject to all the duties and obligations, now incumbent upon, and appertaining to said town, as a municipal corporation. And the administration of all the fiscal, prudential, and municipal concerns of said city, with the conduct and government thereof, shall be vested in one principal officer, to be styled the mayor; one select council, consisting of eight persons, to be denominated the board of aldermen; and one more numerous council, to consist of forty-eight persons, to be denominated the common council; which boards, in their joint capacity, shall be denominated the city council, together with such other board of officers, as are hereinafter specified. City, and its rights, powers, etc.

SECT. 2. *Be it further enacted*, that it shall be the duty of the selectmen of Boston, as soon as may be, after the passing of this act, to cause a new division of the said town to be made into twelve wards, in such manner as to include an equal number of inhabitants in each ward, as nearly as conveniently may be, consistently with well defined limits to each ward; including, in such computation of numbers of inhabitants, persons of all descriptions, and taking the last census, made under the authority of the United States, as a basis for such computation. And it shall be in the power of the city council, hereinafter mentioned, from time to time, not oftener than once in ten years, to alter such division of wards, in such manner as to preserve, as nearly as may be, an equal number of inhabitants in each ward. To be divided into twelve wards.

SECT. 3. *Be it further enacted*, that on the second Monday of April, annually, the citizens of said city, qualified to vote in city affairs, shall meet together, in their respective wards, at such time and place as the mayor and aldermen may, by their warrant, direct and appoint, and the said citizens shall then choose by ballot one warden and one clerk, who shall be resident in said ward, who shall hold their offices for one year, and until others shall be appointed in their stead. And it shall be the duty of such warden to preside at all meetings of the citizens of such ward, to preserve order therein; and it shall be the duty of such clerk to make a fair and true record, and keep an exact journal, of all the acts and votes of the citizens, at such ward meetings; to deliver over such records and journals, together with all other documents and papers held by him, in his said capacity, to his successor in such office. And if, at the opening Election of city officers.

Duty of warden and clerk.

Inspectors of elections.

Duties of inspectors.

of any annual meeting, the warden of such ward should not be present, the clerk of such ward shall call the citizens to order, and preside at such meeting until a warden shall be chosen by ballot. And if, at any other meeting, the warden shall be absent, the clerk, in such case, shall so preside, until a moderator or warden, *pro tempore*, shall be chosen; which may be done by nomination and hand vote, if the clerk so direct. At such meeting also, five inspectors of elections shall be chosen for such ward, being residents therein, by ballot, to hold their offices for one year. And it shall be the duty of the warden and inspectors, in each ward, to receive, sort, count, and declare all votes, at all elections within such ward. And the warden, clerk, and inspectors, so chosen, shall, respectively be, under oath, faithfully and impartially to discharge their several duties, relative to all elections; which oath may be administered by the clerk of such ward, to the warden, and by the latter, to the clerk and inspectors, or by any justice of the peace of the county of Suffolk; and a certificate of such oaths having been administered, shall be entered in the record or journal, to be kept by the clerk of such ward.

Powers of warden.

SECT. 4. *Be it further enacted*, that the warden, or other presiding officer of such ward meeting, shall have full power and authority to preserve order and decorum therein; and to repress all riotous, tumultuous, and disorderly conduct therein, and for that purpose, to call to his aid, any constable, or other peace officer, and also to command the aid and assistance of any citizen or citizens, who may be present; and any peace officer, or other citizen, neglecting or refusing to afford such aid, shall be taken and deemed to be guilty of a misdemeanor. And such warden shall also have power and authority, by warrant, under his hand, to cause any person or persons, who shall be guilty of any riotous, tumultuous, or disorderly conduct at such meeting, to be taken into custody, and restrained: *provided, however*, that such restraint shall not continue after the adjournment or dissolution of such meeting: *and provided further*, that the person, so guilty of such disorderly conduct, shall be liable, notwithstanding such restraint, to be prosecuted and punished, in the same manner, as if such arrest had not been made.

Provisos.

Choice of mayor.

SECT. 5. *Be it further enacted*, that the citizens of said city, qualified to vote in city affairs, at their respective ward meetings, to be held on the second Monday in April, annually, shall be called upon to give their votes for one able and discreet person, being an inhabitant of the city, to be mayor of said city, for the term of one year. And all the votes so given in, in each ward, being sorted, counted, and declared by the warden and inspectors of elections, shall be recorded at large, by the clerk, in open ward meeting; and, in making such declaration and record, the whole number of votes or ballots given in shall be distinctly stated, together with the name of every person voted for, and the number of votes given for each person respectively; such numbers to be expressed in words at length; and a transcript of such record, certified and authenticated by the warden, clerk, and a majority of the inspectors of elections for each ward, shall, forthwith, be transmitted or delivered by such ward clerk, to the clerk of the city. And it shall be the duty of the city clerk, forthwith to enter such returns, or a plain and intelligible abstract of them, as they are successively received, upon the journal of the proceedings of the mayor and aldermen, or some other book to be kept for that purpose. And it shall be the duty of the mayor and aldermen to meet together, within two days after such election, and to examine and compare all the said returns, and to ascertain whether any person has a majority of all the votes given for mayor; and in

Returns of votes.

Examination of votes.

case a majority is so given, it shall be their duty to give notice thereof, in writing, to the person thus elected, and also to make the same known to the inhabitants of said city. But if, on such an examination, no person appears to have a majority of all the votes given for mayor, the mayor and aldermen, for the time being, shall issue their warrants for meetings of the respective wards, for the choice of a mayor, at such time and place, as they shall judge most convenient; and the same proceedings shall be had in all respects, as are hereinbefore directed, until a mayor shall be chosen by a majority of all the voters, voting at such election. And in case of the decease, inability, or absence of the mayor, and the same being declared, and a vote passed by the aldermen and common council, respectively, declaring such cause, and the expediency of electing a mayor, for the time being, to supply the vacancy thus occasioned, it shall be lawful for the aldermen and common council to meet in convention, and elect a mayor to hold the said office until such occasion shall be removed, or until a new election.

Provision for new meeting in case no election is made at the first.

Provision in case of the death, absence, etc., of the mayor.

SECT. 6. *Be it further enacted*, that the citizens in their respective ward meetings, to be held on the second Monday of April, annually, shall be called upon to give in their votes for eight persons, being inhabitants of said city, to constitute the board of aldermen, for the ensuing year; and all the votes so given, being sorted, counted, and declared by the warden and inspectors, shall be recorded at large, by the clerk, in open ward meeting; and in making such declaration and record, the whole number of votes or ballots given in shall be particularly stated, together with the name of every person voted for, and the number of votes given for each person; and a transcript of such record, certified by the warden and clerk and a majority of the inspectors of each ward, shall, by the said clerk, within two days, be transmitted to the city clerk; whereupon the same proceedings shall be had, to ascertain and determine the persons chosen as aldermen, as are herein before directed in regard to the choice of mayor, and for a new election, in case of the whole number required not being chosen at the first election. And each alderman, so chosen, shall be duly notified, in writing, of his election, by the mayor and aldermen for the time being.

Board of aldermen to be chosen annually.

SECT. 7. *Be it further enacted*, that the citizens of each ward, qualified to vote as aforesaid, at their respective ward meetings, to be held on the second Monday of April, annually, shall be called upon to give in their votes for four able and discreet men, being inhabitants of said ward, to be members of the common council: and all the votes given in as aforesaid, in each ward, and being sorted, counted, and declared by the warden and inspectors, if it appear that four persons have a majority of all the votes given at such election, a public declaration thereof, with the names of the persons so chosen, shall be made in open ward meeting, and the same shall be entered at large, by the clerk of such ward, in his journal, stating, particularly, the whole number of votes given in, the number necessary to make a choice, and the number actually given for each of the persons, so declared to be chosen. But, in case four persons are not chosen at the first ballot, a new ballot shall be opened for a number of common councilmen, sufficient to complete the number of four; and the same proceedings shall be had, as before directed, until the number of four shall be duly chosen: *provided, however*, that, if the said elections cannot conveniently be completed on such day, the same may be adjourned to another day, for that purpose, not longer distant than three days. And each of the persons so chosen as a member of the common council, in each ward, shall, within two days of his election, be furnished with a certificate thereof, signed by the warden, clerk,

Common councilmen to be elected annually.

Proviso for adjournment of meeting.

and a majority of the inspectors of such ward; which certificate shall be presumptive evidence of the title of such person to a seat in the common council; but such council, however, shall have authority to decide ultimately upon all questions relative to the qualifications, elections and returns of its members.

Qualification of electors

SECT. 8. *Be it further enacted*, that every male citizen of twenty-one years of age and upwards, excepting paupers, and persons under guardianship, who has resided within the Commonwealth one year, and within the city six months next preceding any meeting of citizens, either in wards, or in general meeting, for municipal purposes, and who has paid by himself or his parent, master, or guardian, any state or county tax, which, within two years next preceding such meeting, shall have been assessed upon him, in any town or district in this commonwealth, and also every citizen who shall be, by law, exempted from taxation, and who shall be in all other respects qualified as above mentioned, shall have a right to vote at such meeting, and no other person shall be entitled to vote at such meeting.

Officers to enter on their duties on first of May.

SECT. 9. *Be it further enacted*, that the mayor, aldermen, and common councilmen, chosen as aforesaid, shall enter on the duties of their respective offices on the first day of May, in each year, unless the same happen on a Sunday; and in that event, on the day following; and before entering on the duties of their offices, shall respectively be sworn, by taking the oath of allegiance and oath of office, prescribed in the constitution of this commonwealth, and an oath to support the constitution of the United States. And such oaths may be administered to the mayor-elect, by any one of the justices of the supreme judicial court, or any judge of any court of record, commissioned to hold any such court, within the said city, or by any justice of the peace for the county of Suffolk. And such oaths shall and may be administered to the aldermen and members of the common council, by the mayor, being himself first sworn as aforesaid; and a certificate of such oaths having been taken, shall be entered in the journal of the mayor and aldermen, and of the common council, respectively, by their respective clerks.

Oath of office.

Mayor and aldermen to act as one body.

SECT. 10. *Be it further enacted*, that the mayor and aldermen, thus chosen and qualified, shall compose one board, and shall sit and act together as one body, at all meetings, of which the mayor, if present, shall preside; but, in his absence, the board may elect a chairman for the time being. The said board, together with the common council,

General powers.

in convention, shall have power to choose a clerk, who shall be sworn to the faithful discharge of the duties of his office, who shall be chosen for the term of one year, and until another person is duly chosen to succeed him; removable, however, at the pleasure of the mayor and aldermen; who shall be denominated the clerk of the city, and whose duty it shall be to keep a journal of the acts and proceedings of the said board, composed of the mayor and aldermen; to sign all warrants issued by them, and to do such other acts in his said capacity, as may, lawfully and reasonably, be required of him; and to deliver over all journals, books, papers, and documents, entrusted to him as such clerk, to his successor in office, immediately upon such successor being chosen and qualified as aforesaid, or whenever he may be required thereto by the said mayor and aldermen. And the city clerk thus chosen and qualified, shall have all the powers, and perform all the duties, now by law belonging to the town clerk of the town of Boston, as if the same were particularly and fully enumerated, except in cases where it is otherwise expressly provided.

May be chosen surveyors of highways.

1823, c. 2.

Duties of clerk.

Common council to act as a separate body.

SECT. 11. *Be it further enacted*, that the persons, so chosen and qualified, as members of the common council of the said city, shall sit and act together as a separate body, distinct from that of the

mayor and aldermen, except in those cases in which the two bodies are to meet in convention; and the said council shall have power, from time to time, to choose one of their own members to preside over their deliberations, and to preserve order therein, and also to choose a clerk, who shall be under oath faithfully to discharge the duties of his office, who shall hold such office, during the pleasure of said council, and whose duty it shall be to attend said council, when the same is in session, to keep a journal of its acts, votes, and proceedings, and to perform such other services in said capacity, as said council may require. All sittings of the common council shall be public; also all sittings of the mayor and aldermen, when they are not engaged in executive business. Twenty-five members of the common council shall constitute a quorum for the transaction of business.

General powers.

Clerk to be chosen.

His duty.

SECT. 12. *Be it further enacted*, that the mayor of the said city, thus chosen and qualified, shall be taken and deemed to be the chief executive officer of said corporation; and he shall be compensated for his services by a salary, to be fixed by the board of aldermen and common council, in city council convened, payable at stated periods; which salary shall not exceed the sum of five thousand dollars annually, and he shall receive no other compensation or emoluments whatever; and no regulation enlarging or diminishing such compensation shall be made, to take effect until the expiration of the year for which the mayor then in office shall have been elected. And it shall be the duty of the mayor to be vigilant and active at all times, in causing the laws for the government of said city to be duly executed and put in force; to inspect the conduct of all subordinate officers in the government thereof, and, as far as is in his power, to cause all negligence, carelessness, and positive violation of duty, to be duly prosecuted and punished. He shall have power, whenever, in his judgment, the good of said city may require it, to summon meetings of the board of aldermen and common council, or either of them, although the meeting of said boards, or either of them, may stand adjourned to a more distant day. And it shall be the duty of the mayor, from time to time, to communicate to both branches of the city council all such information, and recommend all such measures as may tend to the improvement of the finances, the police, health, security, cleanliness, comfort, and ornament of the said city.

Compensation of the mayor.

His duty.

— may call meetings of the city officers.

SECT. 13. *Be it further enacted*, that the administration of police, together with the executive powers of the said corporation generally, together also with all the powers heretofore vested in the selectmen of the town of Boston, either by the general laws of this commonwealth, by particular laws relative to the powers and duties of said selectmen, or by the usages, votes, or by-laws of said town, shall be, and hereby are, vested in the mayor and aldermen, as hereby constituted, as fully and amply as if the same were herein specially enumerated. And further, the said mayor and aldermen shall have full and exclusive power to grant licenses to innholders, victuallers, retailers, and confectioners, within the said city, in all cases wherein the court of sessions for the county of Suffolk, on the recommendation of the selectmen of Boston, have heretofore been authorized to grant such licenses; and, in granting such licenses, it shall be lawful for the said mayor and aldermen to annex thereto such reasonable conditions in regard to time, places, and other circumstances, under which such license shall be acted upon, as, in their judgment, the peace, quiet, and good order of the city may require. Also to take bonds of all persons so licensed, in reasonable sums, and with sufficient sureties, conditioned for a faithful compliance with the terms of their said licenses, and of all laws and regulations respecting such licensed

Powers of mayor and aldermen.

To grant licenses.

— and take bonds from persons licensed.

Forfeiture for
acting as a
taverner, etc.,
without license.

houses : and said mayor and aldermen, after the granting of any such license, shall have power to revoke or suspend the same, if in their judgment the order and welfare of said city shall require it. And any person or persons who shall presume to exercise either of the said employments, within said city, without having first obtained a license therefor, or in any manner, contrary to the terms of said license, or after the same shall have been revoked or suspended, such person or persons shall be liable to the same penalties and forfeitures, and to be prosecuted for, in the same manner as now by law provided, in case of exercising either of said employments without license from the court of sessions for the county of Suffolk ; and shall also be taken and deemed to have forfeited their bonds, respectively given aforesaid, upon which suits may be instituted against such licensed persons or their sureties, at the discretion of the said mayor and aldermen, and in such manner as they may direct, for the purpose of enforcing such forfeiture : *provided, however*, that all inn-holders, retailers, confectioners, and victuallers, shall, on being licensed as aforesaid, pay the same sum now required by law ; which sum shall be accounted for in the same way and manner as is now by law required.

Mayor and
aldermen may
license theatrical
exhibitions,
etc., and regulate
them.

SECT. 14. *Be it further enacted*, that the mayor and aldermen shall have power to license all theatrical exhibitions, and all public shows, and all exhibitions of whatever name or nature, to which admission is obtained on payment of money, on such terms and conditions as to them may seem just and reasonable ; and to regulate the same, from time to time, in such manner as to them may appear necessary to preserve order and decorum, and to prevent the interruption of peace and quiet. And any person or persons who shall set forth, establish, or promote any such exhibition or show, or publish, or advertise the same, or otherwise aid or assist therein, without a license so obtained as aforesaid, or contrary to the terms or conditions of such license, or whilst the name is suspended, or after the same is revoked by said mayor and aldermen, shall be liable to such forfeiture, as the city council may, by any by-law made for that purpose, prescribe.

By-laws.

Provisos.

Assessment of
taxes.

Proviso.

SECT. 15. *Be it further enacted*, that all other powers now by law vested in the town of Boston, or in the inhabitants thereof, as a municipal corporation, shall be, and hereby are, vested in the mayor and aldermen and common council of the said city, to be exercised by concurrent vote, each board, as hereby constituted, having a negative upon the other ; more especially, they shall have power to make all such needful and salutary by-laws as towns by the laws of this commonwealth have power to make and establish, and to annex penalties, not exceeding twenty dollars, for the breach thereof, which by-laws shall take effect and be in force from and after the times therein respectively limited, without the sanction or confirmation of any court, or other authority whatsoever : *provided*, that such by-laws shall not be repugnant to the constitution and laws of this commonwealth : *and provided, also*, that the same shall be liable to be annulled by the legislature thereof. The said city council shall also have power, from time to time, to lay and assess taxes for all purposes for which towns are by law required or authorized to assess and grant money, and also for all purposes for which county taxes may be levied and assessed, whenever the city shall alone compose one county : *provided, however*, that in the assessment and apportionment of all such taxes upon the polls and estates of all persons liable to contribute thereto, the same rules and regulations shall be observed, as are now established by the laws of this commonwealth, or may be hereafter enacted, relative to the

assessment and apportionment of town taxes. The said city council shall also have power to provide for the assessment and collection of such taxes, and to make appropriations of all public moneys, and provide for the disbursement thereof, and take suitable measures to ensure a just and prompt account thereof; and for these purposes, may either elect such assessors, and assistant assessors, as may be needful, or provide for the appointment or election of the same, or any of them, by the mayor and aldermen, or by the citizens, as in their judgment may be most conducive to the public good, and may also require of all persons intrusted with the collection, custody, or disbursement of all public moneys, such bonds with such conditions and such sureties, as the case may in their judgment require.

Collection of taxes.

Assessors to be chosen.

SECT. 16. *Be it further enacted*, that the said city council shall have power, and they are hereby authorized, to provide for the appointment or election of all necessary officers, for the good government of said city, not otherwise provided for; to prescribe their duties, and fix their compensation, and to choose a register of deeds, whenever the city shall compose one county. The city council, also, shall have the care and superintendence of the public buildings, and the care, custody, and management of all the property of the city, with power to lease or sell the same (except the Common, and Faneuil hall), with power also to purchase property, real or personal, in the name, and for the use, of the city, whenever its interest or convenience may, in their judgment, require it.

City council may appoint all necessary city officers.

SECT. 17. *Be it further enacted*, that all the power and authority now by law vested in the board of health for the town of Boston, relative to the quarantine of vessels, and relative to every subject whatsoever, shall be, and the same is hereby, transferred to, and vested in, the said city council, to be carried into execution by the appointment of health commissioners, or in such other manner as the health, cleanliness, comfort, and order of the said city may in their judgment require, subject to such alterations as the legislature may, from time to time, adopt.

Powers of board of health transferred to city council.

SECT. 18. *Be it further enacted*, that the mayor and aldermen of said city, and the said common council, shall, as soon as conveniently may be, after their annual organization, meet together in convention, and elect some suitable and trustworthy person to be treasurer of said city.

City treasurer to be chosen.

SECT. 19. *Be it further enacted*, that the citizens, at their respective ward meetings, to be held on the second Monday of April, annually, shall elect, by ballot, a number of persons, to be determined by the city council, but not less than three in each ward, to be firewards of said city, who together shall constitute the board of firewards of said city, and shall have all the powers, and be subject to all the duties, now by law appertaining to the firewards of the town of Boston, until the same shall be altered or qualified by the legislature. And the said citizens shall, at the same time, and in like manner, elect one person in each ward, to be an overseer of the poor; and the persons thus chosen shall together constitute the board of overseers for said city, and shall have all the powers, and be subject to all the duties, now by law appertaining to the overseers of the poor for the town of Boston, until the same shall be altered or qualified by the legislature. And the said citizens shall, at the same time, and in like manner, elect one person in each ward, to be a member of the school committee for the said city; and the persons so chosen shall, jointly with the mayor and aldermen, constitute the school committee for the said city, and have the care and superintendence of the public schools.

Firewards.

Overseers of the poor.

School committee.

SECT. 20. *Be it further enacted*, that all boards and officers, acting

Expenditures of public money to

be accounted for
to city council.

under the authority of the said corporation, and intrusted with the expenditure of public money, shall be accountable therefor to the city council, in such manner as they may direct. And it shall be the duty of the city council to publish and distribute, annually, for the information of the citizens, a particular statement of the receipts and expenditures of all public moneys, and a particular statement of all city property.

Mayor to nominate officers.

SECT. 21. *Be it further enacted*, that, in all cases in which appointments to office are directed to be made by the mayor and aldermen, the mayor shall have the exclusive power of nomination; such nomination, however, being subject to be confirmed or rejected by the board of aldermen: *provided, however*, that no person shall be eligible to any office, the salary of which is payable out of the city treasury, who, at the time of his appointment, shall be a member either of the board of aldermen or common council.

Proviso.

City council to fix the number of representatives to general court.

SECT. 22. *Be it further enacted*, that it shall be the duty of the two branches of the city council, in the month of May, in each year, after their annual organization, to meet in convention, and determine the number of representatives which it may be expedient for the corporation to send to the general court in such year, within its constitutional limits, and to publish such determination, which shall be conclusive; and the number thus determined shall be specified in the warrant calling a meeting for the election of representatives; and neither the mayor, nor any alderman, or members of the common council, shall, at the same time, hold any other office under the city government.

Ward meetings, for the choice of national and state officers.

SECT. 23. *Be it further enacted*, that all elections for governor, lieutenant governor, senators, representatives, representatives to congress, and all other officers, who are to be chosen and voted for by the people, shall be held at meetings of the citizens, qualified to vote in such elections, in their respective wards, at the time fixed by law for those elections respectively. And at such meetings, all the votes given in, being collected, sorted, counted, and declared, by the inspectors of elections, in each ward, it shall be the duty of the clerk of such ward to make a true record of the same, specifying therein the whole number of ballots given in, the name of each person voted for, and the number of votes for each, expressed in words at length. And a transcript of such record, certified by the warden, clerk, and a majority of the inspectors of elections in such ward, shall forthwith be transmitted or delivered by each ward clerk to the clerk of the city. And it shall be the duty of the city clerk forthwith to enter such returns, or a plain and intelligible abstract of them, as they are successively received, in the journals of the proceedings of the mayor and aldermen, or in some other book kept for that purpose. And it shall be the duty of the mayor and aldermen to meet together within two days after every such election, and examine and compare all the said returns, and thereupon to make out a certificate of the result of such election, to be signed by the mayor and a majority of the aldermen, and also by the city clerk, which shall be transmitted, delivered, or returned in the same manner as similar returns are by law directed to be made by the selectmen of towns; and such certificates and returns shall have the same force and effect, in all respects, as like returns of similar elections, made by the selectmen of towns. And in all elections for representatives to the general court, in case the whole number proposed to be elected shall not be chosen by a majority of the votes legally returned, the mayor and aldermen shall forthwith issue their warrant for a new election, and the same proceedings shall be had in all respects as are herein before directed, until the whole number

Examination and return of votes.

shall be elected: *provided, however*, that it shall be the duty of the selectmen of the said town of Boston, within twelve days from the passing of this act, to call a meeting of the qualified voters of the said town to give in their ballots on the following question: shall the elections for state and United States officers be holden in general meeting? And it shall be the duty of the selectmen to preside at the said meeting, to receive, sort, count, and declare the votes given in, and to forward a certificate of the result to the secretary of the commonwealth, and publish the same in two or more of the newspapers printed in Boston; and if a majority of the votes so given in shall be in the negative, then the provisions of the preceding part of this section shall regulate the said elections in wards; but if a majority of the votes given in as aforesaid shall be in the affirmative, then the said elections for state and United States officers shall be holden in the manner prescribed by the constitution and laws of the commonwealth, with the exception that the mayor and aldermen and city clerk shall perform the duties now required by law to be performed by the selectmen and town clerk.

Proviso.

SECT. 24. *Be it further enacted*, that prior to every election of city officers, or of any officer or officers under the government of the United States or of this commonwealth, it shall be the duty of said mayor and aldermen to make out lists of all the citizens of each ward, qualified to vote in such election, in the manner in which selectmen and assessors of towns are required to make out similar lists of voters; and for that purpose they shall have free access to the assessors' books and lists, and be entitled to the aid and assistance of all assessors, assistant assessors and other officers of said city. And it shall be the duty of said mayor and aldermen to deliver such list of the voters in each ward, so prepared and corrected, to the clerk of said ward, to be used by the warden and inspectors thereof at such election; and no person shall be entitled to vote at such election whose name is not borne on such list. And, to prevent all frauds and mistakes in such elections, it shall be the duty of the inspectors, in each ward, to take care that no person shall vote at such election, whose name is not so borne on the list of voters, and to cause a mark to be placed against the name of each voter, on such list, at the time of giving in his vote.

Ward lists of voters to be made.

— and delivered to ward clerks for wardens' and inspectors' use at elections.

None to vote whose name is not on the list.

SECT. 25. *Be it further enacted*, that general meetings of the citizens, qualified to vote in city affairs, may from time to time be held, to consult upon the common good, to give instructions to their representatives, and to take all lawful measures to obtain a redress of any grievances, according to the right secured to the people by the constitution of this commonwealth. And such meetings shall and may be duly warned by the mayor and aldermen, upon the requisition of fifty qualified voters of said city.

General meetings.

SECT. 26. *Be it further enacted*, that all warrants for the meetings of the citizens, for municipal purposes, to be had either in general meetings or in wards, shall be issued by the mayor and aldermen, and shall be in such form, and shall be served, executed, and returned at such time, and in such manner, as the city council may, by any by-law, direct and appoint.

Warrants for meetings to be issued by mayor and aldermen.

SECT. 27. *Be it further enacted*, that for the purpose of organizing the system of government hereby established, and putting the same into operation in the first instance, the selectmen of the town of Boston, for the time being, shall seasonably, before the second Monday of April next, issue their warrants for calling meetings of the said citizens, in their respective wards, qualified to vote as aforesaid, at such place and hour as they shall think expedient, for the purpose of choosing a warden, clerk, and five inspectors of elections, and also

Form of organizing the city.

Return of votes.

to give in their votes for a mayor and eight aldermen, for said city, and four common councilmen, three firewards, one overseer of the poor, and one member of the school committee, for each ward; and the transcripts of the records of each ward, specifying the votes given for mayor and aldermen, firewards, overseers, and members of the school committee, certified by the warden, clerk, and a majority of the inspectors of such ward, shall, at said election, be returned to the said selectmen of the town of Boston, whose duty it shall be to examine and compare the same. And in case said elections shall not be complete at the first election, then to issue a new warrant, until such election shall be completed, and to give notice thereof, in the manner herein before directed, to the several persons elected. And at said first meeting, the clerk of each ward, under the present organization, shall call the citizens to order, and preside until a warden shall be chosen; and at said first meeting, a list of voters in each ward, prepared and corrected by the selectmen of the town of Boston, for the time being, shall be delivered to the clerk of each ward, to be used as herein before directed.

Repeal of acts.

SECT. 28. *Be it further enacted*, that so much of the act heretofore passed, relative to the establishment of a board of health for the town of Boston, as provides for the choice of members of the said board, and so much of the several acts relative to the assessment and collection of taxes within the town of Boston, as provides for the election of assistant assessors, also all such acts, and parts of acts, as come within the purview of this act, and which are inconsistent with, or repugnant to the provisions of this act, shall be, and the same are hereby repealed.

SECT. 29. And whereas, by the laws of this commonwealth, towns are authorized and required to hold their annual meetings some time in the months of March or April, in each year, for the choice of town officers; and whereas, such meeting, in the month of March, in the present year, for the town of Boston, would be useless and unnecessarily burthensome: therefore,

March meetings suspended.

Be it further enacted, that the annual town meetings, in the months of March or April, be suspended, and all town officers now in office shall hold their places until this act shall go into operation.

Legislative control.

SECT. 30. *Be it further enacted*, that nothing in this act contained shall be so construed as to restrain or prevent the legislature from amending or altering the same, whenever they shall deem it expedient.

Conditional clause.

SECT. 31. *Be it further enacted*, that this act shall be void, unless the inhabitants of the town of Boston, at a legal town meeting, called for that purpose, shall, by a written vote, determine to adopt the same within twelve days.

February 23, 1823.

1806. — CHAPTER 65.

AN ACT TO DIVIDE THE TOWN OF CAMBRIDGE, AND TO INCORPORATE THE SOUTHERLY PARISH THEREIN AS A SEPARATE TOWN, BY THE NAME OF BRIGHTON.

Be it enacted, etc.:

Brighton incorporated.

SECTION 1. That all that part of the town of Cambridge situate on the south side of Charles river, heretofore known as the third parish, and as described within the following bounds, together with the inhabitants thereon, be, and the same is, hereby incorporated into a separate town, by the name of Brighton, — viz.: Beginning at Brookline line, where Charles river intersects the same, and running on a

Boundaries.

line in the middle of said Charles river, until it strikes Newton line, thence along Newton line until it intersects Brookline line; thence on said line of Brookline to said Charles river, first mentioned; and the said town of Brighton is hereby vested with all the powers, privileges, and immunities, and shall also be subjected to all the duties to which other corporate towns are entitled and subjected by the constitution and laws of this commonwealth: *provided, however, that* nothing in this act shall be so construed as to impair the right or privilege of the congregational ministers of the said town of Brighton, which they hold in Harvard college. Proviso.

SECT. 2. *Be it further enacted*, that the said town of Brighton shall be entitled to hold such proportion of all the real and personal estate, now belonging to, and owned in common by the inhabitants of the present town of Cambridge, as the property of the said town of Brighton now bears to the property of all the inhabitants of the present town of Cambridge, according to the latest valuation thereof, excepting always, all right of common landing places, uses and privileges, heretofore possessed by the inhabitants of said town of Cambridge, all which shall be held and enjoyed by the towns respectively within whose limits the same may be. Proportion of property to be held by Brighton.

SECT. 3. *Be it further enacted*, that the said town of Brighton shall be holden to pay their proportion, to be ascertained as aforesaid, of all the debts and claims now due and owing from the said town of Cambridge, or which may hereafter be found due and owing by reason of any contract, engagement, judgment of court, or any matter or thing, now or heretofore entered into or existing. To pay their proportion of debts, etc.

SECT. 4. *Be it further enacted*, that the said town of Brighton shall be holden to support their proportion of the present poor of the town of Cambridge, which proportion shall be ascertained as aforesaid, and all persons, who shall be ascertained as aforesaid, and all persons, who shall or may hereafter become chargeable as paupers, shall be considered as belonging to that town on whose territory they have gained a legal settlement at the passing of this act, and shall be supported by that town only. Supporting the poor.

SECT. 5. *Be it further enacted*, that the said town of Brighton shall keep up and support their proportion of a bridge over Charles river, between said town and the town of Cambridge, so long as said bridge may be deemed by law necessary; said proportion to be ascertained by the state valuation from time to time. Supporting the bridge.

SECT. 6. *Be it further enacted*, that either of the justices of the peace for the county of Middlesex is hereby authorized to issue a warrant, directed to some inhabitant of the said town of Brighton, requiring him to notify and warn the inhabitants thereof to meet at such convenient time and place as shall be expressed in the said warrant, for the choice of all such officers as towns are by law required to choose, in the months of March or April, annually. Justice to issue his warrant.

SECT. 7. *Be it further enacted*, that the said town of Brighton shall pay their proportion of all state and county taxes, as are already, or may hereafter, be assessed upon the inhabitants of the town of Cambridge, until the general court shall lay a tax upon said town of Brighton. To pay proportion of taxes.

February 24, 1807.

1846 — CHAPTER 95.

AN ACT TO ESTABLISH THE CITY OF ROXBURY.

Be it enacted, etc. :

Roxbury to be a city.

SECTION 1. The inhabitants of the town of Roxbury shall continue to be a body politic and corporate, under the name of the city of Roxbury, and as such shall have, exercise, and enjoy all the rights, immunities, powers, and privileges, and shall be subject to all the duties and obligations, now incumbent upon, and appertaining to, said town as a municipal corporation.

Administration, etc., to be vested in a mayor, eight aldermen, and twenty-four common councilmen, etc.

SECT. 2. The administration of all the fiscal, prudential, and municipal affairs of said city, with the government thereof, shall be vested in one principal officer, to be styled the mayor; one council of eight, to be called the board of aldermen; and one council of twenty-four, to be called the common council: which boards, in their joint capacity, shall be denominated the city council, and the members thereof shall be sworn to the faithful performance of the duties of their respective offices. A majority of each board shall constitute a quorum for doing business, and no member of either board shall receive any compensation for his services.

Boards to serve without compensation.

Selectmen to divide the town into eight wards, etc.

SECT. 3. It shall be the duty of the selectmen of the town of Roxbury, as soon as may be, after the passage of this act, and its acceptance by the inhabitants, as hereinafter provided, to divide said town into eight wards, as follows, to wit: *first*, by drawing a line between the second and third parishes, as near the old territorial parish line as may be convenient, constituting the second parish one ward; *second*, by drawing a line in the same manner between the first and third parishes, and dividing the third parish into two wards, to contain, as nearly as may be convenient, an equal number of inhabitants; *third*, by dividing the first parish into five wards, as nearly equal in number of inhabitants as may be consistent with convenience in other respects.

Arrangement thereof to be revised every five years by the city council. Proviso.

It shall be the duty of the city council, once in five years, to revise, and, if it be needful, to alter said wards in such manner as to preserve, as nearly as may be, an equal number of voters in each ward: *provided, however*, that the second parish shall always constitute at least one ward, and the third parish shall constitute at least two wards, without any addition of territory to either.

Election, qualifications, and duties of wardens, clerks, and inspectors of elections.

SECT. 4. On the second Monday in March, annually, there shall be chosen by ballot in each of said wards, a warden, clerk, and three inspectors of elections, residents of the wards in which they are chosen, who shall hold their offices for one year, and until others shall have been chosen in their places, and qualified to act.

To serve under oath, etc.

It shall be the duty of such warden to preside at all ward meetings, with the powers of moderator of town meetings. And if, at any meeting, the warden shall not be present, the clerk of such ward shall call the meeting to order, and preside until a warden *pro tempore* shall be chosen by ballot. And if, at any meeting, the clerk shall not be present, a clerk *pro tempore* shall be chosen by ballot. The clerk shall record all the proceedings and certify the votes given, and deliver over to his successor in office all such records and journals, together with all other documents and papers held by him in said capacity. It shall be the duty of the inspectors of elections to assist the warden in receiving, assorting, and counting the votes. And the warden, clerk, and inspectors, so chosen, shall respectively make oath or affirmation, faithfully and impartially to discharge their several duties, relative to all elections, which oath may be administered by the clerk of such ward to the warden, and by the warden to the clerk and inspectors, or by any justice of the peace for the county of Norfolk.

All warrants for meetings of the citizens for municipal purposes, to be held either in wards or in general meetings, shall be issued by the mayor and aldermen, and shall be in such form, and shall be served, executed, and returned in such manner, and at such times, as the city council may by any by-law direct.

Warrants for ward and city meetings.

SECT. 5. The mayor and eight aldermen, one alderman to be selected from each ward, shall be elected by the qualified voters of the city at large, voting in their respective wards, and three common councilmen shall be elected from and by the voters of each ward, and shall be residents of the wards in which they are elected: all said officers shall be chosen by ballot, and shall hold their offices for one year from the first Monday in April, and the mayor until another shall be elected and qualified in his place.

Election and term of office, of mayor, aldermen, and common councilmen.

SECT. 6. On the second Monday in March, annually, immediately after a warden, clerk, and inspectors shall have been elected and sworn, the qualified voters in each ward shall give in their votes for mayor, aldermen, and common councilmen, as provided in the preceding section; and all the votes so given shall be assorted, counted, declared, and registered in open ward meeting, by causing the names of persons voted for, and the number of votes given for each, to be written in the ward records in words at length.

Proceedings at meetings for elections.

The clerk of the ward, within twenty-four hours after such election, shall deliver to the persons elected members of the common council, certificates of their election, signed by the warden and clerk, and by a majority of the inspectors of elections, and shall deliver to the city clerk a copy of the records of such election, certified in like manner: *provided, however*, that if the choice of common councilmen cannot be conveniently effected on that day, the meeting may be adjourned, from time to time, to complete such election.

Certificates of election to members of common council.

Proviso.

The board of aldermen shall, as soon as may be convenient, examine the copies of the records of the several wards, certified as aforesaid, and shall cause the person who may have been elected mayor to be notified in writing of his election; but if it shall appear that no person has received a majority of all the votes, or if the person elected shall refuse to accept the office, the board shall issue their warrants for a new election, and the same proceedings shall be had as are hereinbefore provided, for the choice of mayor, and repeated, from time to time, until a mayor is chosen.

Notification to mayor.

Proceedings in case of failure to elect a mayor.

In case of his decease, resignation, or absence of the mayor, or of his inability to perform the duties of his office, it shall be the duty of the board of aldermen and common council in convention, to elect a mayor for the time being, to serve until another is chosen, or until the occasion causing the vacancy is removed.

Proceedings to supply vacancy in the office of mayor.

And, if it shall appear that the whole number of aldermen have not been elected, the same proceedings shall be had, as are hereinbefore provided for choice of mayor.

— and of aldermen.

Each alderman shall be notified in writing of his election, by the mayor and aldermen for the time being.

Notifications to aldermen.

The oath prescribed by this act shall be administered to the mayor by the city clerk, or any justice of the peace for the county of Norfolk.

Administration and record of oaths of office.

The aldermen and common councilmen elect shall, on the first Monday of April, at ten o'clock in the forenoon, meet in convention, when the oath required by this act shall be administered to the members of the two boards present, by the mayor, or by any justice of the peace for the county of Norfolk; and a certificate of such oath having been taken, shall be entered on the journal of the mayor and aldermen, and of the common council, by their respective clerks.

Whenever it shall appear that no mayor has been elected previously

Record, etc., in case of failure

to choose a mayor.

to the said first Monday in April, the mayor and aldermen for the time being shall make a record of that fact; an attested copy of which the city clerk shall read at the opening of the convention to be held as aforesaid.

Organization of common council.

After the oaths have been administered as aforesaid, the two boards shall separate; and the common council shall be organized by the choice of a president and a clerk, to hold their office during the pleasure of the common council, and to be sworn to the faithful performance of their duties.

Proceedings in case of absence of the mayor-elect at the time for organization.

In case of the absence of the mayor-elect, on the first Monday in April, the city government shall organize itself in the manner hereinbefore provided, and may proceed to business in the same manner as if the mayor were present; and the oath of office may be administered to the mayor at any time thereafter, in a convention of the two branches.

Mayor *pro tempore*.

In the absence of the mayor, the board of aldermen may choose a chairman *pro tempore*, who shall preside at joint meetings of the two boards.

Duties of each board as to records, rights to seats, and new elections.

Each board shall keep a record of its own proceedings, and judge of the elections of its own members; and in failure of election, or in cases of vacancy, may order new elections. And in case of any such vacancy, declared by either board, the mayor and aldermen shall order a new election.

Duties of mayor.

SECT. 7. The mayor, thus chosen and qualified, shall be the chief executive officer of said city. It shall be his duty to be vigilant in causing the laws and regulations of the city to be enforced, and to keep a general supervision over the conduct of all subordinate officers, with power to remove them for neglect of duty. He may call special meetings of the board of aldermen and common council, or either of them, when necessary in his opinion, by causing notices to be left at the places of residence of the several members; he shall communicate, from time to time, to both of them, such information, and recommend such measures, as, in his opinion, the interests of the city may require; he shall preside in the board of aldermen, and in convention of the two branches, but shall have only a casting vote.

Compensation.

The salary of mayor for the first year in which this charter shall take effect shall be six hundred dollars, and no more; his salary shall afterwards be fixed by the city council, but neither increased nor diminished during the year for which he is chosen, and he shall have no other compensation: *provided, however*, that the city council shall have power to appoint the mayor commissioner of highways, when in their opinion such an office is necessary, and allow him a suitable compensation therefor.

Mayor may be commissioner of highways.

Executive powers of selectmen transferred to mayor and aldermen.

SECT. 8. The executive power of said city generally, and the administration of police, with all the powers heretofore vested in the selectmen of Roxbury, shall be vested in the mayor and aldermen, as fully as if the same were heretofore specially enumerated.

Power of mayor, etc., in respect to appointments, removals,

The mayor and aldermen shall have full and exclusive power to appoint a constable and assistants, or a city marshal and assistants, with the powers and duties of constables, and all other police-officers; and the same to remove at pleasure.

— requiring bonds of constables.

And the mayor and aldermen may require any person appointed a constable of the city, to give bonds with such security as they may deem reasonable, before he enters upon the duties of his office, upon which bonds the like proceedings and remedies may be had, as are by law provided in case of constables' bonds taken by the selectmen of towns.

— and licenses.

And the mayor and aldermen shall have the same power to grant licenses to innholders, victuallers, and retailers within the city, which is possessed by the mayor and aldermen of the city of Boston.

The city council shall, annually, as soon after their organization as may be convenient, elect, by joint ballot in convention, a treasurer and collector of taxes, a chief engineer, a city clerk, and three assessors of taxes, and fix their compensations. They shall also, in such manner as they shall determine, appoint or elect all other subordinate officers, for whose election or appointment other provision is not herein made, define their duties and fix their compensations.

City council to appoint certain officers.

All sittings of the common council shall be public; and all sittings of the mayor and aldermen shall also be public, when they are not engaged in executive business.

Sittings to be public, provided, etc.

The city council shall also take care that no moneys be paid from the treasury, unless granted or appropriated; shall secure a just and proper accountability by requiring bonds, with sufficient penalties and sureties, from all persons trusted with the receipt, custody, or disbursement of money; shall have the care and superintendence of the city buildings, with the power to let, or to sell whatever may be legally sold; and to purchase property, real or personal, in the name and for the use of the city, whenever its interests or convenience may, in their judgment require it. And the city council shall, as often as once a year, cause to be published, for the use of the inhabitants, a particular account of the receipts and expenditures, and a schedule of city property.

Safe-keeping, etc., of city property.

SECT. 9. In all cases in which appointments are directed to be made by the mayor and aldermen, the mayor shall have the exclusive power of nomination, such nomination, however, being subject to be confirmed or rejected by the board of aldermen: *provided, however*, that no person shall be eligible to any office of emolument, the salary of which is payable out of the city treasury, who, at the time of such appointment, shall be a member of the board of aldermen or of the common council.

Mayor to nominate, etc.

Proviso.

SECT. 10. The city clerk shall also be clerk of the board of aldermen and shall be sworn to the faithful performance of his duties. He shall perform such duties as shall be prescribed by the board of aldermen, and he shall perform all the duties, and exercise all the powers, by law incumbent upon, or vested in, the town clerk of the town of Roxbury; he shall be chosen for one year, and until another shall be chosen and qualified in his place, but may be at any time removed by the city council.

Duties of city clerk.

SECT. 11. The qualified voters of each ward, at their respective annual ward meetings for the choice of officers, shall elect, by ballot, one person in each ward to be an overseer of the poor, who shall be a resident of said ward; and the persons thus chosen, together with the mayor, shall constitute the board of overseers of the poor, and shall have all the powers and be subject to all the duties now by law appertaining to the overseers of the poor for the town of Roxbury.

Overseers of the poor.

The qualified voters shall, at the same time, and in the same manner, elect three persons from the city at large, and two persons from each ward, to be members of the school committee; and the persons thus chosen shall constitute the school committee, and have the care and superintendence of the public schools.

School committee.

The qualified voters shall, at the same time, and in like manner, elect one person in each ward to be an assistant assessor, who shall be a resident of said ward; and it shall be the duty of the persons so chosen to furnish the assessors with all the necessary information relative to persons and property taxable in their respective wards; and they shall be sworn to the faithful performance of their duty.

Assistant assessors.

The persons to be chosen by the city council as assessors shall constitute the board of assessors, and shall exercise the powers and be subject to the duties and liabilities of assessors in towns.

Assessors.

Assessment,
apportionment,
and collection
of taxes.

All taxes shall be assessed, apportioned, and collected in the manner prescribed by law relative to town taxes: *provided, however*, that it shall be lawful for the city council to establish further and additional provision for the collection thereof.

Proceedings to
fill vacancies in
said boards.

Should there fail to be a choice of overseers of the poor, members of the school committee, or assistant assessors, in any ward, the vacancy or vacancies shall be filled by the city council in convention, in the same manner that is provided for filling vacancies in the senate of this commonwealth.

Powers of city
council, and of
mayor and
aldermen, in
respect to
streets and
ways.

SECT. 12. The city council shall have exclusive authority and power to lay out any new street or town way, and to estimate the damages any individual may sustain thereby; but all questions relating to the subject of laying out, accepting, altering, or discontinuing any street or way, shall first be acted upon by the mayor and aldermen. And any person dissatisfied with the decision of the city council in the estimate of damages, may make complaint to the county commissioners of the county of Norfolk, at any meeting held within one year after such decision, whereupon the same proceedings shall be had as are now provided by the laws of the commonwealth in cases when persons are aggrieved by the assessment of damages by selectmen, in the twenty-fourth chapter of the revised statutes.

Appeals for
damages.

Health officers.

SECT. 13. All power and authority now by law vested in the board of health for the town of Roxbury, or in the selectmen of said town, shall be transferred to, and vested in the city council, to be carried into execution in such manner as the city council shall deem expedient.

Power of city
council in re-
spect to drains
and common
sewers.

SECT. 14. The city council shall have authority to cause drains and common sewers to be laid down through any streets or private lands, paying the owners such damage as they may sustain thereby; and to require all persons to pay a reasonable sum for the privilege of opening any drain into said public drain or common sewer.

— and to the
inspection, etc.,
of wood, etc.

And the city council may make by-laws, with suitable penalties, for the inspection, survey, measurement, and sale of lumber, wood, coal, and bark, brought into the city for sale.

Breaches of by-
laws, etc., may
be prosecuted
before a justice
of the peace, etc.

SECT. 15. All fines, forfeitures, and penalties, accruing for the breach of any by-law of the city of Roxbury, or of any of the ordinances of the city council, or of any of the orders of the mayor and aldermen, may be prosecuted for and recovered, before any justice of the peace in said city of Roxbury, by complaint or information, in the name of the commonwealth, in the same way and manner in which other criminal offences are now prosecuted before the justices of the peace within this commonwealth; reserving, however, in all cases, to the party complained of and prosecuted, the right of appeal to the court of common pleas, then next to be held in the county of Norfolk, from the judgment and sentence of any justice of the peace.

With right of
appeal.

And the appeal shall be allowed on the same terms, and the proceedings be conducted therein in the same manner as provided in the one hundred and thirty-eighth chapter of the revised statutes of this commonwealth.

Form of
complaint.

It shall be sufficient, in all such prosecutions, to set forth in the complaint, the offence fully, plainly, substantially, and formally; and it shall not be necessary to set forth such by-law, ordinance, or order, or any part thereof.

Fines, etc., pay-
able to treasurer.

All fines, forfeitures, and penalties, so recovered and paid, shall be paid to the treasurer of the city of Roxbury, and shall enure to such uses as said city council shall direct.

Failure to pay
fines, etc., for
breach of by-
laws, etc.,

When any person, upon any conviction before a justice of the peace, for any breach of any by-law of said city of Roxbury, or any of the ordinances of the city council, or any of the orders of the

mayor and aldermen, shall be sentenced to pay a fine, or ordered to pay any penalty or forfeiture, provided by any such by-law, ordinance, or order, or upon claiming an appeal, shall fail to recognize for his appearance at the court appealed to, and there to prosecute his appeal and to abide the sentence or order of the court thereon, and in the mean time to keep the peace and be of good behavior, and upon not paying the fine, penalty, or forfeiture, and costs so assessed upon him, he shall be committed to prison, there to remain until he or she shall pay such fine, forfeiture, or penalty and costs, or be otherwise discharged according to law.

punishable with imprisonment.

The provisions of this section shall also apply to all prosecutions founded on the by-laws or ordinances of the town of Roxbury, which may continue in force after this act shall go into operation.

Provisions of this section to be extended to by-laws, etc., of town.

SECT. 16. It shall be the duty of the city council annually, in the month of October, to meet in convention and determine the number of representatives to be elected by the city to the general court in such year, which shall be conclusive, and the number thus determined shall be specified in the warrant calling meetings for the election of representatives.

Duty of city council to determine number of representatives in general court.

SECT. 17. All elections for county, state, and United States officers, who are voted for by the people, shall be held at meetings of the citizens qualified to vote in such elections in their respective wards, at the time fixed by law for these elections respectively; and at such meetings all the votes, given for said several officers respectively, shall be assorted, counted, declared, and registered in open ward meeting, by causing the names of all persons voted for, and the number of votes given for each, to be written in the ward record in words at length. The ward clerk shall forthwith deliver to the city clerk a certified copy of the record of such elections. The city clerk shall forthwith record such returns, and the mayor and aldermen shall, within two days after every such election, examine and compare all said returns, and make out a certificate of the result of such elections, to be signed by the mayor and a majority of the aldermen, and also by the city clerk, which shall be transmitted or delivered in the same manner as similar returns are by law directed to be made by selectmen of towns. And in all elections for representatives to the general court, in case the whole number proposed to be elected shall not be chosen by a majority of the votes legally returned, the mayor and aldermen shall forthwith issue their warrant for a new election, conformably to the provisions of the constitution, and the laws of the commonwealth.

Proceedings at and after meetings for election of county, state, and federal officers.

SECT. 18. Prior to every election, the mayor and aldermen shall make out lists of all the citizens of each ward qualified to vote in such elections, in the manner in which the selectmen of towns are required to make out lists of voters; and for that purpose they shall have full access to the assessors' books and lists, and be entitled to the assistance of all assessors, assistant assessors, and city officers; and they shall deliver said lists, so prepared and corrected, to the clerks of said wards, to be used at such elections; and no person shall be entitled to vote whose name is not borne on such list.

Lists of voters.

SECT. 19. General meetings of the citizens qualified to vote, may, from time to time, be held, to consult upon the public good; to instruct their representatives, and to take all lawful measures to obtain redress for any grievances, according to the right secured to the people by the constitution of this commonwealth. And such meetings may and shall be duly warned, by the mayor and aldermen, upon the requisitions of fifty qualified voters.

Meetings of the citizens.

SECT. 20. For the purpose of organizing the system of government hereby established, and putting the same into operation in the

First organization of city government.

first instance, the selectmen of the town of Roxbury for the time being, shall, on some day during the month of March or April of the present year, issue their warrants seven days at least previous to the day so appointed for calling meetings of the said citizens at such place and hour as they may deem expedient, for the purpose of choosing a warden, clerk, and inspectors for each ward, and all other officers whose election is provided for in the preceding sections of this act, and the transcripts of the records of each ward, specifying the votes given for the several officers aforesaid, certified by the warden and clerk of such ward at said first meeting, shall be returned to the said selectmen, whose duty it shall be to examine and compare the same; and in case said elections shall not be completed at the first meeting, then to issue new warrants until such elections shall be completed; and to give notice thereof in the manner hereinbefore provided, to the several persons elected. And at said first meeting, any inhabitant of said ward, being a legal voter, may call the citizens to order, and preside until a warden shall have been chosen. And at said first meeting, a list of voters in each ward, prepared and corrected by the selectmen for the time being, shall be delivered to the clerk of each ward, when elected, to be used as hereinbefore provided. And the selectmen shall appoint such time for the first meeting of the city council as they may judge proper, after the choice of city officers as aforesaid, or a majority of the members of both branches, in the year one thousand eight hundred and forty-six, and shall also fix upon the place and the hour of said first meeting; and a written notice thereof shall be sent, by said selectmen, to the place of abode of each of the city officers chosen as provided in this section. And after this first election of city officers, and this first meeting for the organization of the city council, as in this section is provided, the day of holding the annual elections, and the day and hour for the meeting of the city council, for the purpose of organization, shall remain as provided in the sixth section of this act.

Subsequent organizations.

Appointment of city officers by city council.
Votes for county officers.

It shall be the duty of the city council immediately after the first organization, to elect all necessary city officers, who shall hold their offices respectively until others are chosen and qualified. And at the meetings to be called, as prescribed in this section, for the choice of ward and city officers, the said inhabitants may, and shall also give in their votes for county officers, which votes shall be recorded, certified, and returned in the manner provided in the seventeenth section of this act.

Power of city council to make by-laws with penalties, etc.

SECT. 21. The city council shall have power to make all such salutary and needful by-laws, as towns, by the laws of this commonwealth, have power to make and establish, and to annex penalties, not exceeding twenty dollars, for the breach thereof, which by-laws shall take effect, and be in force, from and after the time therein respectively limited, without the sanction of any court or other authority whatever: *provided, however,* that all laws and regulations now in force in the town of Roxbury, shall, until they shall expire by their own limitation, or be revised or repealed by the city council, remain in force, and all fines and forfeitures for the breach of any by-law or ordinance shall be paid into the city treasury.

Proviso.

Annual town meetings suspended, etc., and town officers to hold over, etc.
Proceedings in case of non-acceptance of this charter.

SECT. 22. The annual town meeting for the town of Roxbury, which by law is required to be held in the month of March or April, is hereby suspended; and all town officers now in office, shall hold their places until this act shall go into operation; and in case this charter shall not be accepted in the manner and form as hereinafter provided, then the selectmen shall issue their warrant according to law, for holding the annual town meeting of the inhabitants, in which all the proceedings shall be the same as if this act had not been passed.

SECT. 23. All officers of the town of Roxbury having the care and custody of any records, papers, or property, belonging to said town, shall deliver the same to the city clerk, within one week after his entering upon the duties of his office.

Delivery of records, etc., to city clerk.

SECT. 24. All such acts, and parts of acts, as are inconsistent with the provisions of this act, shall be, and the same are hereby, repealed.

Repeal of inconsistent provisions.

SECT. 25. Nothing in this act contained shall be so construed as to prevent the legislature from altering or amending the same, whenever they shall deem it expedient.

Legislature may alter and amend this act.

SECT. 26. This act shall be void, unless the inhabitants of the town of Roxbury, at a legal town meeting called for that purpose, shall, by a vote of a majority of the voters present, and voting thereon, by a written ballot, determine to adopt the same within twenty days from and after its passage.

Act to be void unless accepted by inhabitants.

SECT. 27. This act shall go into operation from and after its passage.

When to take effect.

March 12, 1846.

1847. — CHAPTER 29.

AN ACT TO ESTABLISH THE CITY OF CHARLESTOWN.

Be it enacted, etc. :

SECT. 1. The inhabitants of the town of Charlestown shall continue to be a body politic and corporate, under the name of the city of Charlestown : and, as such, shall have, exercise, and enjoy, all the rights, immunities, powers, and privileges, and shall be subject to all the duties and obligations, now incumbent upon, and appertaining to, said town as a municipal corporation.

Charlestown to be a city.

SECT. 2. The administration of all the fiscal, prudential, and municipal affairs of said city, with the government thereof, shall be vested in one principal officer, to be styled the mayor ; one council of six, to be called the board of aldermen ; and one council of eighteen, to be called the common council, which boards, in their joint capacity, shall be denominated the city council ; and the members thereof shall be sworn to the faithful performance of the duties of their respective offices. A majority of each board shall constitute a quorum for doing business, and no member of either shall receive any compensation for his services.

Administration, etc., to be vested in a mayor, six aldermen, and eighteen common councilmen.

SECT. 3. It shall be the duty of the selectmen of the town of Charlestown, as soon as may be after the passage of this act, and its acceptance by the inhabitants, as hereinafter provided, to divide said town into three wards, as nearly equal in number of inhabitants as may be consistent with convenience in other respects. And it shall be the duty of the city council, once in five years, to revise, and, if it be needful, to alter said wards, in such manner as to preserve, as nearly as may be, an equal number of voters in each ward.

Boards to serve without compensation.

Selectmen to divide the town into three wards.

Arrangement thereof to be revised every five years by the city council.

SECT. 4. On the second Monday in March, annually, there shall be chosen by ballot, in each of said wards, a warden, clerk, and three inspectors of elections, who shall hold their offices for one year from the first Monday in April following said second Monday in March, and until others shall have been chosen in their places. And it shall be the duty of such warden to preside at all ward meetings, with the powers of moderator of town meetings. And if, at any meeting, the warden shall not be present, the clerk of such ward shall call the meeting to order, and preside until a warden, *pro tempore*, shall be chosen by ballot. And if at any meeting the clerk shall not be present, a clerk, *pro tempore*, shall be chosen by ballot. The clerk

Election, qualifications, and duties of warden.

— clerk.

— and inspectors of elections.	shall record all the proceedings, and certify the votes given, and deliver over to his successors in office all such records and journals, together with all other documents and papers held by him in said capacity. And it shall be the duty of the inspectors of elections to assist the warden in receiving, assorting, and counting the votes.
To serve under oath, etc.	And the warden, clerk, and inspectors, so chosen, shall respectively make oath or affirmation faithfully and impartially to discharge their several duties relative to elections, which oath may be administered by the clerk of such ward to the warden, and by the warden to the clerk and inspectors, or by any justice of the peace for the county of Middlesex. And all warrants for meetings of the citizens for municipal purposes, to be held either in wards or in general meetings, shall be issued by the mayor and aldermen, and shall be in such form, and shall be served, executed, and returned in such manner, and at such times, as the city council may, by any by-law, direct.
Warrants for ward and city meetings.	
Election, qualification, and term of office of mayor, aldermen, and common councilmen.	SECT. 5. The mayor and six aldermen, two aldermen to be selected from each ward, shall be elected by the inhabitants of the city at large, voting in their respective wards; and six common councilmen shall be elected from and by each ward, being residents of the wards in which they are elected: all said officers shall be chosen by ballot, and shall hold their offices for one year from the first Monday in April, and the mayor until another shall be elected and qualified in his place.
Proceedings at meetings for elections.	SECT. 6. On the second Monday in March, annually, the qualified voters in each ward shall give in their votes for mayor, aldermen, and common councilmen, warden, clerk, and inspectors, as provided in the preceding sections; and all the votes so given shall be assorted, counted, declared, and registered in open ward meeting, by causing the names of persons voted for, and the number of votes given for each, to be written in the ward records, in words, at length. The clerk of the ward, within twenty-four hours after such election, shall deliver to the persons elected warden, clerk, inspectors, and members of the common council, certificates of their election, signed by the warden and clerk, and a majority of the inspectors of elections, and shall deliver to the city clerk a copy of the records of such election, certified in like manner: <i>provided, however</i> , that if the choice of warden, clerk, inspectors, or common councilmen cannot be conveniently effected on that day, the meeting may be adjourned, from time to time, to complete such election. The board of aldermen shall, as soon as conveniently may be, examine the copies of the records of the several wards, certified as aforesaid, and shall cause the person who may have been elected mayor to be notified, in writing, of his election; but if it shall appear that no person has received a majority of all the votes, or if the person elected shall refuse to accept the office, the board shall issue their warrants for a new election, and the same proceedings shall be had as are hereinbefore described, for the choice of mayor, and repeated, from time to time, until a mayor is chosen.
Certificates of elections to members of common council.	
Proviso.	
Notification to mayor.	In case of the decease, resignation, or absence of the mayor, or of his inability to perform the duties of his office, it shall be the duty of the board of aldermen and the common council, in convention, to order, by vote, an entry of that fact to be made in their records, and then to elect a mayor, for the time being, to serve until another is chosen, or until the occasion causing the vacancy is removed.
Proceedings in cases of failure to elect a mayor.	And if it shall appear that the whole number of aldermen have not been elected, the same proceedings shall be had as are hereinbefore directed for choice of mayor. And each alderman shall be notified in writing of his election, by the mayor and aldermen for the time being.
Proceedings to supply vacancy in the office of mayor.	The oath prescribed by this act shall be administered to the mayor
— and of aldermen.	
Notification to aldermen.	
Administration	

by the city clerk, or any justice of the peace for the county of Middlesex. and record of oaths of office.

The aldermen and common councilmen elect shall, on the first Monday in April, at ten o'clock in the forenoon, meet in convention, when the oath required by this act shall be administered to the members of the two boards present, by the mayor, or by any justice of the peace for the county of Middlesex: and a certificate of such oath having been taken shall be entered on the journal of the mayor and aldermen, and of the common council, by their respective clerks.

And whenever it shall appear that no mayor has been elected previously to the said first Monday in April, the mayor and aldermen for the time being shall make a record of that fact, an attested copy of which the city clerk shall read at the opening of the convention to be held as aforesaid. Record, etc., in case of failure to choose a mayor.

After the oath has been administered as aforesaid, the two boards shall separate, and the common council shall be organized by the choice of a president and clerk, to hold their office during the pleasure of the common council, and to be sworn to the faithful performance of their duties. Organization of common council.

In the case of the absence of the mayor-elect on the first Monday in April, the city government shall organize itself in the manner hereinbefore provided, and may proceed to business in the same manner as if the mayor were present; and the oath of office may be administered to the mayor at any time thereafter, in a convention of the two branches. Proceedings in case of absence of the mayor-elect at the time for organization.

In the absence of the mayor, the board of aldermen may choose a chairman, *pro tempore*, who shall preside at joint meetings of the two boards. Mayor pro tempore.

Each board shall keep a record of its own proceedings, and judge of the elections of its own members; and, in failure of election, or in cases of vacancy declared by either board, the mayor and aldermen shall order a new election. Duties of each board as to records, rights to seats, and new elections.

SECT. 7. The mayor, thus chosen and qualified, shall be the chief executive officer of the city. It shall be his duty to be vigilant in causing the laws and regulations of the city to be enforced, and to keep a general supervision over the conduct of all subordinate officers, with power to remove them for neglect of duty. He may call special meetings of the boards of aldermen and common council, or either of them, when necessary in his opinion, by causing notices to be left at the places of residence of the several members; he shall communicate, from time to time, to both of them, such information, and recommend such measures as, in his opinion, the interests of the city may require; he shall preside in the board of aldermen and in convention of the two branches, but shall have only a casting vote. Duties of mayor.

The salary of mayor, for the first year in which this charter shall take effect, shall be five hundred dollars, and no more; his salary shall afterwards be fixed by the city council, but neither increased nor diminished during the year for which he is chosen, and he shall have no other compensation: *provided, however*, that the city council shall have power to appoint the mayor commissioner of highways, when, in their opinion, such an office is necessary, and allow him a suitable compensation therefor. Compensation. Mayor may be commissioner of highways.

SECT. 8. The executive power of said city, generally, and the administration of police, with all the powers heretofore vested in the selectmen of Charlestown, shall be vested in the mayor and aldermen, as fully as if the same were herein specially enumerated. And all other powers now vested in the inhabitants of said town, as a municipal corporation, and all powers granted by this act, not herein otherwise provided for, shall be vested in the mayor and aldermen. Executive powers of selectmen transferred to mayor and aldermen, and powers of inhabitants transferred to mayor and aldermen and common council.

and common council of said city, to be exercised by concurrent vote, each board to have a negative upon the other.

Power of mayor,
etc., in respect
to appointments
and removals.

And the mayor and aldermen shall have full and exclusive power to appoint a constable and assistants, or a city marshal and assistants, with the powers and duties of constables, and all other police-officers; and the same to remove at pleasure.

— requiring
bonds of con-
stables.

And the mayor and aldermen may require any person, appointed a constable of the city, to give bonds, with such security as they may deem reasonable, before he enters upon the duties of his office, upon which bonds the like proceedings and remedies may be had as are by law provided in case of constables' bonds taken by the selectmen of towns.

— and licenses.

And the mayor and aldermen shall have the same power to grant licenses to innholders, victuallers, and retailers, within the city, which is possessed by the mayor and aldermen of the city of Boston.

City council to
appoint certain
officers.

The city council shall, annually, as soon after their organization as may be convenient, elect by joint ballot, in convention, a treasurer and collector of taxes, engineers of the fire department, a city clerk, three assessors of taxes, and fix their compensations. They shall also, in such manner as they shall determine, appoint or elect all other subordinate officers, not herein otherwise directed, define their duties, and fix their compensations.

Sittings to be
public, pro-
vided, etc.

All sittings of the common council shall be public, and all sittings of the mayor and aldermen, when they are not engaged in executive business.

Safe-keeping,
etc., of city
property.

The city council shall take care that no moneys be paid from the treasury, unless granted or appropriated; shall secure a just and proper accountability, by requiring bonds, with sufficient penalties and sureties, from all persons trusted with the receipt, custody, or disbursement of money; shall have the care and superintendence of the city buildings, with the power to let or sell what may be legally sold; and to purchase property, real or personal, in the name and for the use of the city, whenever its interest or convenience may, in their judgment, require it. And the city council shall, as often as once in a year, cause to be published, for the use of the inhabitants, a particular account of the receipts and expenditures, and a schedule of city property.

Mayor to
nominate, etc.

SECT. 9. In all cases in which appointments are directed to be made by the mayor and aldermen, the mayor shall have the exclusive power of nomination, such nomination, however, being subject to be confirmed or rejected by the board of aldermen: *provided, however*, that no person shall be eligible to any office of emolument, the salary of which is payable out of the city treasury, who, at the time of such appointment, shall be a member of the board of aldermen or of the common council.

Proviso.

City clerk,
duties of, etc.

SECT. 10. The city clerk shall be clerk of the board of aldermen, and shall be sworn to the faithful performance of his duties. He shall perform such duties as shall be prescribed by the board of aldermen; and he shall perform all the duties, and exercise all the powers, by law incumbent upon, or vested in, the town clerk of the town of Charlestown. He shall be chosen for one year, and until another shall be chosen and qualified in his place, but may be at any time removed by the city council.

Overseers of
the poor.

SECT. 11. The citizens, at their respective annual ward meetings for the choice of officers, shall elect, by ballot, two persons in each ward, to be overseers of the poor; and the persons thus chosen, together with the mayor, shall constitute the board of overseers of the poor, and shall have all the powers, and be subject to all the duties, now by law appertaining to the overseers of the poor for the town of Charlestown.

And the citizens shall, at the same time and in the same manner, elect five persons from the city at large, and two persons from each ward, to be members of the school committee; and the persons thus chosen shall constitute the school committee, and have the care and superintendence of the public schools; and said school committee shall have all the powers and privileges, and be subject to all the liabilities, set forth in an act passed by the legislature of Massachusetts, in the year of our Lord one thousand seven hundred and ninety-three, entitled, "An act to incorporate certain persons by the name of the Trustees of Charlestown free schools," and all acts in addition thereto.

School committee.

1847, 268.

And the persons chosen by the city council as assessors shall constitute the board of assessors, and shall exercise the powers, and be subject to the duties and liabilities, of assessors in towns.

Assessors.

All taxes shall be assessed, apportioned, and collected, in the manner prescribed by law relative to town taxes: *provided, however*, that it shall be lawful for the city council to establish further additional provisions for the collection thereof.

Assessment, apportionment, and collection of taxes.

Should there fail to be a choice of overseers of the poor, or members of the school committee, the vacancy or vacancies shall be filled by the city council in convention, in the same manner that is provided for filling vacancies in the senate of this commonwealth.

Vacancies.

SECT. 12. The city council shall have exclusive authority and power to lay out any new street or town way, and to estimate the damages any individual may sustain thereby; but all questions relating to the subject of laying out, accepting, altering, or discontinuing any street or way, shall be first acted upon by the mayor and aldermen. And any person dissatisfied with the decision of the city council, in the estimate of damages, may make complaint to the county commissioners of the county of Middlesex, at any meeting held within one year after such decision, whereupon the same proceedings shall be had as are now provided by the laws of this commonwealth in cases where persons are aggrieved by the assessment of damages by selectmen, in the twenty-fourth chapter of the revised statutes.

Streets and ways; powers of city council and mayor in respect to.

Appeals for damages.

SECT. 13. All power and authority now by law vested in the board of health for the town of Charlestown, or in the selectmen of said town, shall be transferred to, and vested in the city council, to be carried into execution in such manner as the city council shall deem expedient.

Health officers.

SECT. 14. The city council shall have authority to cause drains and common sewers to be laid down through any street or private lands, paying the owners such damage as they may sustain thereby; and to require all persons to pay a reasonable sum for the privilege of opening any drain into said public drain or common sewer.

Drains and common sewers

And the city council may make by-laws, with suitable penalties, for the inspection, survey, measurement, and sale of lumber, wood, coal, and bark, brought into the city for sale.

Inspection of wood, etc.

SECT. 15. It shall be the duty of the city council, annually, in the month of October, to meet in convention and determine the number of representatives to be elected by the city to the general court, in such year, which shall be conclusive, and the number thus determined shall be specified in the warrant calling meetings for the election of representatives.

Duty of city council to determine number of representatives to general court, etc.

SECT. 16. All elections for county, state, and United States officers, who are voted for by the people, shall be held at meetings of the citizens qualified to vote in such elections in their respective wards, at the time fixed by law for these elections respectively; and, at such meetings, all the votes given for said several officers respectively shall be assorted, counted, declared, and registered in open

Proceedings at and after meetings for election of county, state, and federal officers.

ward meeting, by causing the names of all persons voted for, and the number of votes given for each, to be written in the ward record in words at length.

The ward clerk shall forthwith deliver to the city clerk a certified copy of the record of such elections. The city clerk shall forthwith record such returns; and the mayor and aldermen shall, within two days after every such election, examine and compare all said returns, and make out a certificate of the result of such elections, to be signed by the mayor and a majority of the aldermen, and also by the city clerk, which shall be transmitted or delivered in the same manner as similar returns are by law directed to be made by the selectmen of towns.

And in all elections for representatives to the general court, in case the whole number proposed to be elected shall not be chosen by a majority of the votes legally returned, the mayor and aldermen shall forthwith issue their warrant for a new election, conformably to the provisions of the constitution and the laws of the commonwealth.

Lists of voters.

SECT. 17. Prior to every election, the mayor and aldermen shall make out lists of all the citizens of each ward qualified to vote in such elections, in the same manner in which selectmen of towns are required to make out lists of voters; and for that purpose they shall have full access to the assessors' books and lists, and be entitled to the assistance of all assessors, assistant assessors, and city officers, and they shall deliver said lists, so prepared and corrected, to the clerks of said wards, to be used at such elections; and no person shall be entitled to vote whose name is not borne on such list.

Meetings of the citizens.

SECT. 18. General meetings of the citizens qualified to vote may, from time to time, be held, to consult upon the public good; to instruct their representatives; and to take all lawful measures to obtain redress for any grievances, according to the right secured to the people by the constitution of this commonwealth. And such meetings may and shall be duly warned, by the mayor and aldermen, upon the requisition of fifty qualified voters.

First organization of city government.

SECT. 19. For the purpose of organizing the system of government hereby established, and putting the same into operation in the first instance, the selectmen of the town of Charlestown, for the time being, shall, on some day during the months of March or April of the present year, issue their warrants seven days at least previous to the day appointed, calling meetings of the said citizens, at such place and hour as they may deem expedient, for the purpose of choosing a warden, clerk, and inspectors for each ward, and all other officers whose election is provided for in the preceding sections of this act; and said selectmen shall appoint, for this first meeting, a warden, clerk, and three inspectors of elections for each ward, which officers shall be sworn to the faithful discharge of their duties; and the transcripts of the records of each ward, specifying the votes given for the several officers aforesaid, certified by the warden and clerk of such ward at said first meeting, shall be returned to the said selectmen, whose duty it shall be to examine and compare the same, and, in case said elections should not be completed at the first meeting, then to issue new warrants until such elections shall be completed; and to give notice thereof, in the manner hereinbefore directed, to the several persons elected. And at said first meeting, a list of voters in each ward, prepared and corrected by the selectmen for the time being, shall be delivered to the clerk of each ward, when appointed to be used as herein before directed. And the selectmen shall appoint such time for the first meeting of the city council, as they may judge proper, after the choice of city officers as aforesaid, or a majority of the members of both branches, not later than the

first Monday in May, in the year one thousand eight hundred and forty-seven, and shall also fix upon the place and the hour of said first meeting; and a written notice thereof shall be sent, by said selectmen, to the place of abode of each of the city officers chosen as provided in this section. And after this first election of city officers, and this first meeting for the organization of the city council, as in this section provided, the day of holding the annual elections, and the day and hour for the meeting of the city council, for the purpose of organization, shall remain as provided in the sixth section of this act.

Subsequent organizations.

And it shall be the duty of the city council, immediately after the first organization, to elect all necessary city officers, who shall hold their offices respectively until others are chosen and qualified. And at meetings to be called as prescribed in this section for the choice of ward and city officers, the said inhabitants may, and shall, also give in their votes for county officers, which votes shall be recorded, certified, and returned, in the manner provided in the sixteenth section of this act.

Appointment of city officers by city council.
Votes for county officers.

SECT. 20. The city council shall have power to make all such salutary and needful by-laws, as towns, by the laws of this commonwealth, have power to make and establish, and to annex penalties, not exceeding twenty dollars, for the breach thereof, which by-laws shall take effect, and be in force, from and after the time therein respectively limited, without the sanction of any court, or other authority whatever: *provided, however*, that all laws and regulations now in force in the town of Charlestown, shall, until they shall expire by their own limitation, or be revised or repealed by the city council, remain in force, and all fines and forfeitures for the breach of any by-law, or ordinance, shall be paid into the city treasury.

Powers of city council to make by-laws, with penalties, etc.

Proviso.

SECT. 21. The annual town meeting for the town of Charlestown, which by law is to be held in the month of March, is hereby suspended, and all town officers now in office shall hold their places until this act shall go into operation; and in case this charter shall not be accepted in the manner and form as hereinafter provided, then the selectmen shall issue their warrant according to law, for holding the annual town meeting of the inhabitants, in which all the proceedings shall be the same as if this act had not been passed.

Annual town meeting suspended, etc., and town officers to hold over, etc.

Proceedings in case of non-acceptance of this charter.

SECT. 22. All officers of the town of Charlestown, having the care and custody of any records, papers, or property, belonging to the said town, shall deliver the same to the city clerk within one week after his entering upon the duties of his office.

Delivery of records, etc., to city clerk.

SECT. 23. All such acts and parts of acts, as are inconsistent with the provisions of this act, shall be, and the same are, hereby repealed.

Repeal of inconsistent provisions.

SECT. 24. Nothing in this act contained shall be so construed as to prevent the legislature from altering or amending the same, whenever they shall deem it expedient.

Legislature may alter and amend this act.

SECT. 25. This act shall be void, unless the inhabitants of the town of Charlestown, at a legal town meeting, called for that purpose, shall, by a vote of a majority of the voters present and voting thereon, by a written ballot, determine to adopt the same within twenty days from and after its passage, at which meeting the polls shall be kept open not less than six hours, and the presiding officer, in receiving said ballots, shall use the check-lists, in the same manner as they are used in elections.

Act to be void unless accepted by inhabitants.

SECT. 26. This act shall go into operation from and after its passage.

When to take effect.

February 22, 1847.

1851. — CHAPTER 250.

AN ACT TO INCORPORATE THE TOWN OF WEST ROXBURY.

*Be it enacted, etc. :***Boundaries.**

SECTION 1. That portion of the city of Roxbury lying south-westerly of a line commencing at a point in the line which divides the city of Roxbury from the town of Dorchester, which point is directly parallel to the last angle in Seaver street, before its intersection with the Brushill turnpike; thence running from said point till it meets the north-easterly side of Seaver street; thence running in a north-westerly direction, and following the north-easterly line of Seaver street, until it strikes Walnut street; thence continuing across said Walnut street in the same general direction and following the north-easterly side of a new street recently laid out and which forms a continuation of said Seaver street, until it strikes the Norfolk and Bristol turnpike; and from the last named point, said point being the intersection of the said new street and the Norfolk and Bristol turnpike, the said line then running in a north-westerly direction and in a straight course, including the dwelling-house of Leonard Hyde, Esq., and twenty-five feet from the rear thereof, and thence continuing in the same straight course and direction until it strikes the line which separates the town of Brookline from the city of Roxbury, is hereby incorporated into a town by the name of West Roxbury; and the inhabitants of the said town of West Roxbury are hereby invested with all the powers and privileges, and shall be subject to the duties and requisitions of other incorporated towns, according to the constitution and laws of this commonwealth.

Name.**Powers and duties, etc.**

Shall pay arrears of taxes to Roxbury, and county and state taxes until next valuation, and proportion of debts of Roxbury.

SECT. 2. The inhabitants of the said town of West Roxbury shall be holden to pay all arrears of taxes which have been assessed upon them by the city of Roxbury before the passing of this act, and also their proportion of all county and state taxes that may be assessed upon them previously to the taking of the next state valuation; such proportion to be ascertained and determined by the last city valuation; and the said town of West Roxbury shall be holden to pay their proportion of the debts due and owing at the time of the passage of this act, from the city of Roxbury, and shall be entitled to receive of the city of Roxbury their proportion of all the corporate property now owned by said city of Roxbury, such proportion to be ascertained by the last valuation of said city of Roxbury: *provided, however*, that the city of Roxbury shall be authorized to collect the tax which is assessed by virtue of law on the first day of May, this current year, upon the inhabitants and owners of property in said West Roxbury, and the said city of Roxbury after deducting the reasonable expenses of assessing and collecting the same, shall account with and pay over the same to the town treasurer of said West Roxbury; and the said city of Roxbury shall incur no liability for the said town of West Roxbury, after the passage of this act.

Proviso.

City of Roxbury authorized to collect tax of current year, etc.

Roxbury to incur no further liability for West Roxbury.

Support of paupers.

SECT. 3. The said city of Roxbury and the town of West Roxbury shall be respectively liable for the support of all persons who do now, or hereafter shall, stand in need of relief as paupers, whose settlement was gained or derived from a settlement gained or derived within their respective limits.

In case of disagreement, court of common pleas to appoint referees, etc.

SECT. 4. In case the said city of Roxbury and town of West Roxbury shall disagree in respect to a division of paupers, city property, city debts, or state and county taxes, the court of common pleas for the county of Norfolk are hereby authorized to, and shall on application of said city of Roxbury or of said town of West Roxbury, appoint three disinterested persons to hear the parties and award thereon,

which award, when accepted by said court, shall be final. In the division of the city property, the Brook Farm and the land known as the Forest Hills cemetery shall be assigned to the said city of Roxbury, if desired by the city authorities, provided that the said city of Roxbury shall assume and discharge the debts created by the purchase of said farm and cemetery, and the incidents thereof; and the same shall be free from taxation so long as they shall be occupied for the purposes of a poor farm and a cemetery respectively.

Brook Farm and Forest Hills cemetery, how disposed of.

SECT. 5. The town of West Roxbury shall, for the purpose of electing the representatives to the general court, to which the territory now comprised in the city of Roxbury is now entitled, until the next decennial census, or until another apportionment of representatives be made, remain a part of the said city of Roxbury; and the inhabitants of said West Roxbury shall vote for the number of representatives which the authorities of the city of Roxbury may decide shall be elected annually in town meeting; and it shall be the duty of the selectmen of said West Roxbury to preside at said town meeting, and receive the votes, and the certificate thereof shall be made by the said selectmen, and certified by the town clerk of said West Roxbury, whose duty it shall be to make return thereof to the mayor and aldermen of the said city of Roxbury, within forty-eight hours of the day of voting, and the votes so returned shall be counted by the said mayor and aldermen, as a part of the vote of the said city of Roxbury.

West Roxbury to remain a part of Roxbury for election of representatives to general court till next census.

Selectmen of West Roxbury to preside, etc.

SECT. 6. Any justice of the peace in the county of Norfolk is hereby authorized to issue his warrant to any principal inhabitant of the town of West Roxbury, requiring him to warn the inhabitants of said town to meet, at the time and place therein appointed, for the purpose of choosing all such town officers as towns are by law authorized and required to choose at their annual meetings.

Warrant for meeting.

SECT. 7. This act shall be in force from and after its passage.

May 24, 1851.

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E & E. H. R.
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